



# **Excellence in Social Responsibility e-toolkit (ESR) Version-01**



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## 1.0 Governance – Introduction

Governance is the process by which an organization charts and steers its course, to achieve its objectives and meet its commitments to its stakeholders. It is the process of defining the strategic decisions that shape the organization, the oversight and implementation of those decisions and ultimately assuming accountability for the outcomes. Governance is about making responsible decisions. Management is the process of planning, organizing and mobilizing people and resources to operationalize those decisions.

In this section we will discuss the elements of governance and management that provide the foundation for explorers to achieve their commitment to the principles of e3 Plus: A Framework for Responsible Exploration. We will introduce the concept of responsible governance, provide background on why responsible governance and effective management systems are important, and outline some recommended practices.

### 1.1 Corporate Governance and Responsible Governance

Until recently, corporate governance was narrowly viewed as being solely concerned with the financial performance and the way in which directors, officers and auditors handle their relationship with, and responsibilities toward, shareholders.

As a result of worldwide attention to corporate reform and in response to the increasing complexity and impact of a globalized economy, a broader notion of corporate governance has emerged. Corporate governance is now viewed as critical to the stability and equity of society and the relationships and the areas of performance that are the focus of governance are now seen as much broader in scope. This expanded concept is captured in the following definition:

"Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society."<sup>1</sup>

This broader definition of corporate governance is sometimes called “good corporate governance”, “effective governance”, or “responsible governance”. It is about delivering effective financial, environmental and social performance and involves adopting a stakeholder perspective that recognizes companies have legal and other obligations to non-shareholder stakeholders (e.g., employees, partners and suppliers, clients and customers, the community as a whole). It is based on the changing role of companies in society. It is also rooted in growing evidence that organizations can generate positive returns and create better value for all of their stakeholders, through effective and efficient management of natural, human, social and other forms of capital.

#### Key Terms

**corporate governance** is concerned with holding the balance between economic and social goals and between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society. (Sir Adrian Cadbury Global Corporate Governance Forum, World Bank, 2000)

**e3 Plus: A Framework for Responsible Exploration** is the expanded framework that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

#### Key Reference Sources

[OECD Website on Corporate Governance](#)

[Framework Code Of Good Corporate Governance For Small And Medium-Size Enterprises](#)

Manual developed by the Colombian Federation of Chambers of Commerce (CONFECAMARAS) and the Center for International Private Enterprise or CIPE (an affiliate of the U.S. Chamber of Commerce) to adapt international corporate governance standards to the characteristics and needs of small- and medium-size enterprises (SMEs) in a crucial step toward gaining access to the global marketplace.

The Global Environmental Management Initiative has a number of good resources to help organizations implement components of social responsibility including:

[TRANSPARENCY: A Path to Public Trust](#) (2004)

[GEMI SD Planner™ & SD Gateway User Manual](#) V 3.1 (2007)

<sup>1</sup> Sir Adrian Cadbury in *Global Corporate Governance Forum, World Bank, 2000*

### 1.2 Why Are Responsible Governance and Sound Management Systems Important?

ASX Corporate Governance Council  
[Principles of Good Corporate Governance and Best Practices Recommendations](#) (2003)

Lewis Carroll's famous quote, "If you don't know where you are going, any road will get you there" applies to organizations as well as to individuals. Without responsible governance, the destination is uncertain and the organization can be easily taken off course. However, even with a clear vision of the destination, it will still be unattainable if you do not effectively manage the people and resources to get there. Responsible governance and sound management systems are interdependent and both are necessary for an organization to achieve its objectives and its commitments to its stakeholders.

While governance and management systems exist in all organizations, it is the structure, character and robustness of those systems that make the difference between successful long-lived organizations and short-lived organizations that have fleeting success or fail altogether.

### 1.3 What Are the Elements of Responsible Governance?

The following elements of responsible governance have been distilled from a number of sources:<sup>2</sup>

- **Strategic Vision:** Establish a strategic vision that directs the organization toward a long-term perspective and aligns the organization's values with the principles of e3 Plus: A Framework for Responsible Exploration.
- **Culture of Compliance:** Implement and maintain effective controls and processes to:
  - comply with legal and regulatory requirements in all jurisdictions in which the organization operates;
  - comply with its own bylaws, policies, rules and procedures and apply them fairly and impartially;
  - comply with the legal and legitimate interests of stakeholders;
  - recognize and address situations where local laws and regulations do not exist, or are not sufficient to enable the organization to act in accordance to with its commitment to social responsibility; and
  - review compliance programs periodically to gain reasonable confidence that they are effective.
- **Effective Performance:** Produce results that best fit the organization's objectives, while making the most efficient and effective use of the resources at their disposal. This includes sustainable development of natural resources and the protection of the environment. Effective performance means:
  - minimizing and managing risk;
  - serving stakeholders within a reasonable timeframe;
  - being responsive and adapting to the changing needs and expectation of stakeholders; and

<sup>2</sup> The sources from which these elements were distilled include: (1) [The United Nations Development Program "Governance and Sustainable Human Development, 1997"](#); (2) [OECD Performance Guidelines on Corporate Governance 2004](#); (3) [Institute of Governance Website "What is Good Governance"](#); and (4) ASX Corporate Governance Council "[Principles of Good Corporate Governance and Best Practices Recommendations](#)", 2003.



- evaluating and improving performance.
- **Accountability:** Be answerable to those who are impacted by the organization's decisions and actions in important ways. Organizations have the responsibility to account for:
  - the performance of the organization and the results of its decisions; if the results were not as intended, the organization should report on what was learned and how it intends to apply the learning;
  - how the decisions and actions of the organization comply with the law and internal procedures;
  - any intended actions that could affect stakeholders in important ways, the outcomes they wish to bring about, for whom, and why they think the outcomes they intend are desirable and fair; and
  - how they are serving the interest of the stakeholders affected by their decisions.
- **Transparency:** Disclose the information that is material in order for accountability to function. Transparency requires that the standards of performance against which the organization can be evaluated are communicated and clear. Sufficient information must be provided to those who will be affected in important ways by the decisions of the organization. This will enable them to understand the implications those decisions will have on their interests. Information must be sufficient, accessible, freely available and understandable.
- **Legitimacy:** Make decisions that have the support and confidence of those implementing the decisions, and those who may be affected by the decisions. Legitimacy is based on:
  - authority and competence to make decisions that affect stakeholders;
  - decisions comply with legal obligations and are consistent with objectives, mandate and commitments of the organization;
  - involvement of the stakeholders affected by the decision in the decision making process; the type of involvement of stakeholders in decision-making will vary based on the decision and the stakeholders affected; however, involvement should be characterized by:
    - clear definition of the decision-making and implementation processes and the respective rights and responsibilities of the parties;
    - opportunity to be included at all stages of decision-making;
    - access to timely and complete information needed to make informed contributions and to exercise good judgment, including access to independent technical or legal advice, where necessary; and
    - the level of consensus between stakeholders and the organization when making a decision. Wherever possible, decisions that have the possibility to impact stakeholders in important ways should be made on the basis of consensus. This involves considering different interests and, where possible, trying to achieve a solution that is in the best interest of the greatest number of stakeholders.

[Related e3 Plus Guidance](#)  
[Community Engagement](#)

- **Fairness:** In the context of responsible governance, fairness has two components: equity and ethical decision-making. There should be clear standards of ethical behaviour required of all personnel and particularly those that have the opportunity to materially influence the integrity, strategy and operation of the organization. All individuals are subject to the same decisions. Decisions should be fair and impartially implemented and enforced without discrimination of any kind.

## **1.4 Establishing a Management System To Support Your Commitments to e3 Plus: A Framework for Responsible Exploration**

### **1.4.1 What Is a Management System?**

A management system is simply a framework for connecting strategy, people and processes to achieve a desired result. “Results-based management” is a life cycle approach to management that integrates strategy, people, resources, processes and measurements to improve decision-making, transparency, and accountability. Results-based management does not just evolve or happen, but requires conscious design involving the construction of processes that are linked together into a management system.

The following table describes the components of a management system for social responsibility

**Table 1: Management System Structure and Requirements**

#### **1. Define the strategy and make the commitment**

##### **1.1. Determine and understand the scope of commitment**

- Develop the Business Case for your organization for adopting and implementing the *e3 Plus: A Framework for Responsible Exploration*
- Assess the costs and benefits
- Consider stakeholder interests
- Develop senior management awareness of scope of commitments

##### **1.2. Define the strategy and direction**

- Define the broad aspirations for social responsibility within the organization
- Determine the relationship between social responsibility and the organization’s values and objectives

##### **1.3. Document your commitment in a social responsibility policy (Related Guidance – [Code of Conduct, Policies and Procedures](#) )**

- Develop a statement(s) of operational and performance commitments for social responsibility that encompasses the principles of *e3 Plus: A Framework for Responsible Exploration*
- Make the policy statement publically available
- Communicate and the policy to employees, contractors and agents

##### **1.4. Establish the governance framework for social responsibility**

- Establish senior management responsibility for implementation and oversight of commitments

- Define the decision making processes to support the governance of social responsibility within the organizations
- Establish the oversight mechanisms by senior management for social responsibility
- Commit the resources to achieve commitments

## **2. Plan for social responsibility at program level**

### **2.1. Understand the requirements and standards of performance that apply to your activities**

- Identify the applicable requirements and standards of performance including:
  - Laws and regulations
  - International standards
  - Best Management Practice
- Identify stakeholder requirements/expectations related to your activities– **(Related Guidance - [Stakeholder Engagement](#))**
- Communicate requirements to employees and contractors who need to be aware of them and need to comply with them in conducting their activities
- Establish a process to make to track changes in requirements over time so that you are aware and can continue to conduct activities in conformance with applicable requirements

### **2.2. Determine the social, environmental and safety performance areas that are priorities for your organization**

- Assess the risks and impacts associated with your overall operations (environmental, health and safety, social) **(Related Guidance - [Risk Assessment](#))**
- Identify those risk areas that are most significant and will require ongoing management processes as part of the overall social responsibility program. For example, establishing processes to manage relationships with contractors

### **2.3. Set performance objectives and targets**

- Objectives should be established to:
  - achieve strategy and policy commitments,
  - comply with performance requirements, and
  - address significant risks
  - Set targets of performance that include criteria to enable your organization to monitor performance against objectives

### **2.4. Establish the action plans and programs to achieve objectives and targets**

- Develop plans that define tasks, responsibility and resources to achieve objectives and targets

## **3. Conduct project due diligence - plan for social responsibility at project level (Related Guidance – [Project Due Diligence](#))**

### **3.1. Understand the requirements and standards of performance that apply to the project**

- Identify the applicable requirements and standards of performance including:
  - Laws and regulations
  - International standards
  - Best Management Practice
- Identify stakeholder requirements/expectations related to the project– **(Related Guidance - [Stakeholder](#)**

[Engagement](#))

**3.2. Identify the project risks**

- Create a list of the various operational and support activities involved in the project and identify the social, environmental and economic impacts of these activities
- Determine what stakeholders may be impacted and how? -
- Conduct an environmental scan to determine what existing (social, political, economic, cultural, and environmental) conditions could contribute to the impact of any mineral exploration activity

**3.3. Assess risks**

- Determine the significance of the risks identified (**Related Guidance – [Risk Estimation](#)**)
- Evaluate whether the risks can be controlled to an acceptable level and whether the project should proceed (Go-no-go decision) (**Related Guidance – [Risk Evaluation](#)**)
- Define risk control strategies (**Related Guidance – [Risk Control](#)**)

**3.4. Establish a Project Plan (Related Guidance – [Project Plan](#))**

- Develop a plan to guide the implementation and management of the project and provide the basis for integrating risk control strategies into existing management and operating practices

**4. Implement the Plan**

**4.1. Define the organizational structure for managing the activity**

- Develop decision and reporting structure
- Define and document roles, responsibilities and authority
- Appoint a representative of management with the responsibility to implement, provide oversight and report to management on performance

**4.2. Budget and make adequate resources to support achievement of performance goals**

- Identify and put in place the resource requirements (physical, human and financial) to support management processes

**4.3. Identify and put in place human resources to support the processes**

- Identify skills and qualifications (competence, education and experience) required for personnel with responsibility for the activity being managed. This includes contract personnel and agents when they are carrying out operational activities on behalf of the organization
- Identify training required by personnel and contractors to enable them to effectively perform their responsibilities

**4.4. Conduct training to achieve strategy, policy commitments, and comply with binding requirements, and address significant risks**

- Establish programs to meet training needs
- Training should include training in:
  - Communication and understanding of policies and procedures applicable to the activity
  - Context and awareness of the subject matter and situation in which responsibilities are being undertaken. This could include training in: (1) the broad social, cultural and political context in which the activity is being undertaken and the risks and opportunities; (2) situation specific ethical issues; and (3) awareness of community relations, sensitivities and concerns

**4.5. Establish networks/ mechanisms to communicate internally**

- Processes should be established to enable free flow of information and discussion at and between different levels within the organization on:
  - Performance standards and operational controls
  - Legal requirements
  - Actual performance (what works, what is not working and what can be improved); and
  - Changes to risk

**4.6. Establish networks/ mechanisms to communicate externally**

- Develop a communication plan
- Communicate externally on performance against commitments and decisions and actions that can impact on affected stakeholders
- Establish a grievance reporting process to: (1) enable the public to submit requests for information or voice complaints or concerns, (2) route the request to the appropriate person, and (3) action and respond to request
- Trend and analyze complaints and inquiries and funnel information on trends back into the: strategy, objectives and targets; performance measures, and communication plan

**4.7. Engage with Stakeholders – (Related Guidance - [Stakeholder Engagement](#))**

- Identify stakeholders
- Classify stakeholders based on level of impact and influence
- Design engagement activities for stakeholder groups commensurate with classification of impact and influence (examples: advisory committees, town halls, open houses, network contacts, personal contact, etc.)
- Conduct engagement activities
- Collect and analyze input and issues and funnel into strategy, objectives and targets, or non-conformance and preventive action as appropriate

**4.8. Put in place control measures that provide reasonable assurance that activities will achieve the defined objectives and performance standards**

- Establish documented procedures ( **Related Guidance:** [Operating Procedures](#)) for activities associated with
  - commitments,
  - binding requirements, and
  - high-risk issues/activities
- Controls other than document procedures that explorers can consider include:
  - Periodic reviews of high risk activities (For example establishing ongoing performance checks of contractors or agents in jurisdictions with high corruption)
  - Checkpoints during the process where personnel assess and make determinations about whether to continue, take corrective action, or stop work

**4.9. Establish mechanisms for data and document control**

- Control how policies and procedures are developed, approved, reviewed and communicated. Establish controls to ensure that current copies are accessible and obsolete copies are removed from circulation
- Control how records are managed, stored and retrieved (Design for on-line and hard copy record keeping system)

- Archive and back up procedures for computer systems

#### **4.10. Prepare to respond to emergencies**

- Identify potential emergency situations as part of project due diligence
- Establish emergency response and contingency plans to deal with situations identified
- Train personnel in emergency and contingency procedures
- Periodically test your preparedness to deal with emergencies. Learn from emergencies by conducting post mortems

### **5. Monitor and Take Action to Improve Performance**

#### **5.1. Establish monitoring programs and procedures**

- Monitor:
  - performance with objectives and targets,
  - compliance with legal requirements, company procedures, project plans, and
  - performance of risk management processes
- Criteria

#### **5.2. Analyze monitoring results**

- Identify trends and areas requiring improvement
- Identify areas of non-conformance with performance standards

#### **5.3. Establish mechanisms for incident and issue reporting, investigation and tracking. ( Related Guidance: [Grievance and Issue Reporting](#) )**

- Establish internal and external issue/ incident reporting mechanisms for:
  - incidents or concerns related to ethical conduct, human rights and other social responsibility commitments
  - outcomes and process deliverables that do not conform with requirements,
  - situations that impact the effectiveness of management processes, and
  - opportunities for improving management processes and outcomes
- **Respond** - Take immediate action to correct and mitigate any impacts
- **Investigate** - review and analyze the root cause of reported issues and
- **Prevent** - identify and implement actions to prevent issues from recurring
- Verify completion and effectiveness of corrective and preventive action
- Analyze issues and identify opportunities for improvement

#### **5.4. Periodically verify performance (through internal or external audit) ( Related Guidance: [Verification](#) )**

- Verify:
  - Compliance with legal requirements, company procedures, project plans, and
  - Ability and effectiveness of management processes to achieve objectives and commitments to stakeholders

#### **5.5. Establish a performance review process conducted by senior management**

- The management review process should consider:
  - Whether the management processes are effective and functioning as intended and what if any changes are required to improve performance; and
  - Changes if any required to policy commitments and standards of performance based on changing

circumstances and feedback from stakeholders

- Management review should be supported by sufficient information on the performance of the management system to enable meaningful evaluation and assessment effectiveness
- Use the compiled information to conduct the review
- Document and communicate results of the management review
- Define action plans including responsibility, resources and timelines for acting on the results of the management review

## **6. Report**

### **6.1. Report to Stakeholders ( Related Guidance: [Social Responsibility Reporting](#) )**

- Establish reporting mechanisms based on stakeholder audiences and their needs;
- Define criteria to report performance

## 1.5 Management Review

### Introduction

Every organization understands the importance of ongoing management review of financial performance to assess whether objectives, budgets, operating plans and forecasts are achieving financial goals and delivering on commitments made to owners and shareholders. They also recognize that being able to anticipate and respond to change is critical to financial success.

A similar of review is critical for all other areas where the organization has set performance commitments, such as health and safety, the environment and social responsibility.

### Key Terms

**management review** is a periodic review of performance, conducted by upper management: to assess the effectiveness, suitability and continued adequacy of plans and processes; to define actions to improve performance; and to adapt plans and processes to changing circumstances.

### Key Reference Sources

#### 1.5.1 What Is a Management Review?

A management review is a diagnostic and a strategic review of plans and processes by top management with the goal of improving performance and responding to changing risks and opportunities.

As a diagnostic activity, the management review should answer the questions: How are we performing? Does our performance meet applicable requirements standards? Are our processes and plans effective? Do they achieve our business objectives? Are existing plans and processes adequate in the face of changing business objectives, project and program risks, performance requirements and stakeholder expectations? As a strategic activity, it should identify the actions that should be taken to improve performance and to respond to changes in risk and opportunities.

Management review is not a meeting; although it typically involves meetings by management, it is a process of informed decision-making. To be effective as a diagnostic and strategic process, management review depends on complete and accurate information and mechanisms to translate decisions into action.

Management review relies on information from monitoring and measurement, audits and other performance assessments, community engagement and grievance processes, to provide input for informed decision-making (see Figure 1 as well as e3 Plus guidance on [Monitoring and Evaluation](#)).



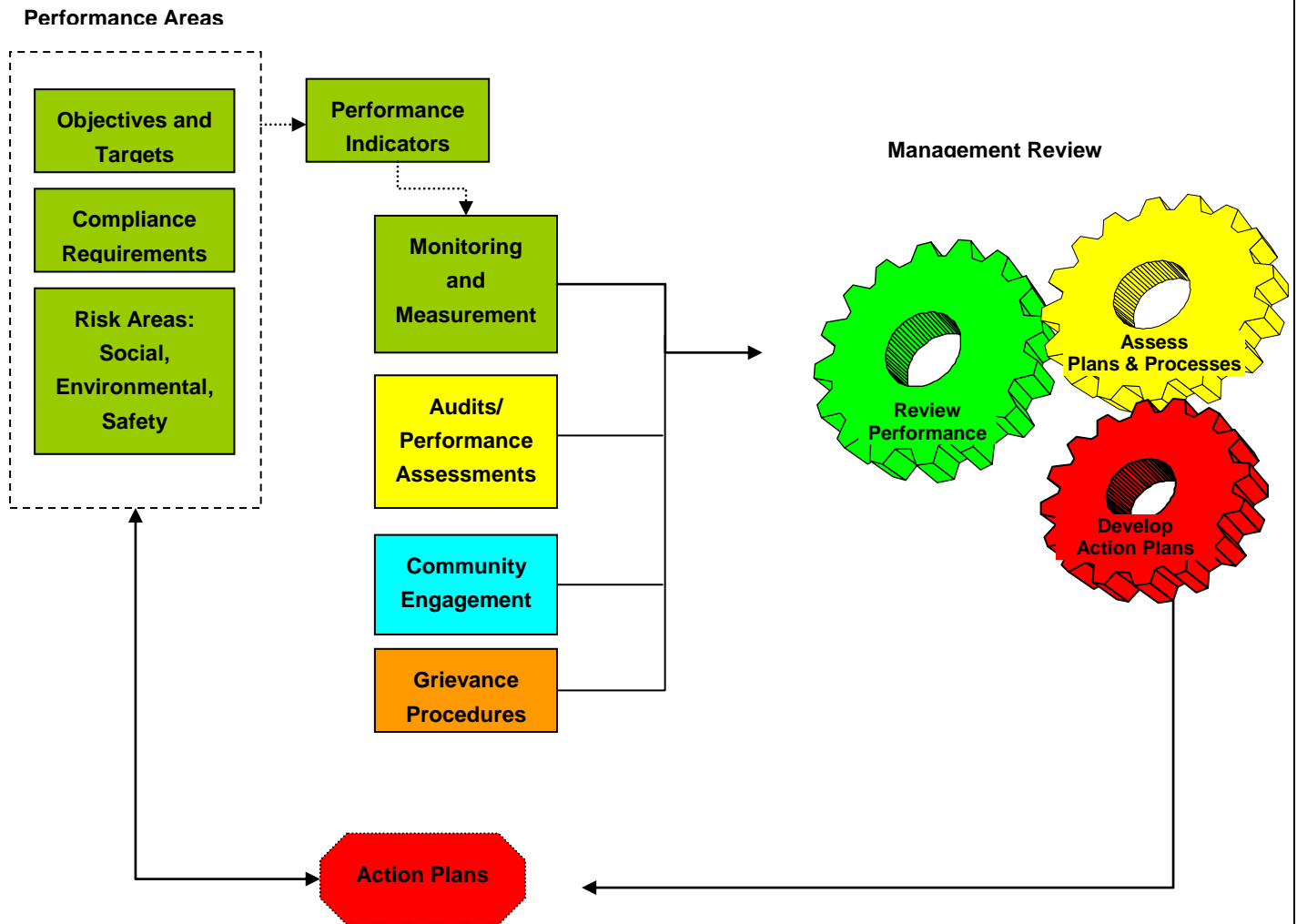


Figure 1: Performance Information for Management Review

### 1.5.2 Recommended Practices

**Integrate management review into existing business and operations meetings.** A management review of health and safety, environmental or social responsibility performance does not have to be its own stand-alone special process. It makes sense to integrate it into regular operations meetings. Setting up special separate meetings makes more work and often fails, because it is difficult to muster the participation of senior personnel who are always stretched for time.

The advantage of integrating management review into existing meetings is that environmental, social and safety performance becomes ingrained as part of doing business. The review of environmental, social or safety performance should be looked at in context of the organization’s overall business plans and goals. Those goals should not be reviewed in isolation, as separate

programs or bolted-on initiatives. In this way, decision-making for these areas will become part of the organizational culture and integrated into the overall management and strategy.

**Establish a standing agenda for the management review.** A standing agenda will assist you to focus the discussion on the key performance areas and promote consistency in the process. An outline of a standing agenda is presented as Table 2 at the end of this section.

**Provide adequate data for informed decision-making.** Informed decision-making is based on adequate and complete information, both about actual performance as well as the changing risks and opportunities the organization faces. Responsibility for collecting and disseminating information to support the management review should be clearly defined. Information should be material to the decisions that need to be made and sufficient to support an informed decision. Information should be succinct, so that key information does not get lost in the detail. Information should be provided to participants sufficiently in advance of the management review to enable them to digest and think through the issues. The typical data that would be useful in a management review is included in the standing agenda outlined in Table 2 Standard Management Review Agenda at the end of this section.

**Keep management reviews succinct and conduct them frequently.** There is no need for long, drawn out reviews. More regular and focused reviews will maintain management focus. It is better to cover fewer topics in depth and establish action plans that can be practically implemented with the resources available to your organization.

The frequency with which management reviews should take place depends on the following: (1) the maturity of the system and processes; (2) the complexity of the issues and risks you face as an organization; (3) the stability of the system and the operating environment; and (4) the degree to which top management is involved in day-to-day operations. Less frequent review is required in smaller organizations where top management is involved extensively in day-to-day operations or in situations where systems and processes are mature and proven. However, if processes are new, if performance does not achieve planned requirements or if the organization operates in a volatile, high risk environment more frequent management reviews are likely necessary.

**Involve personnel at both operational and top management levels.** Operational personnel bring the right information and knowledge about the processes and challenges and top management can make decisions about the organization and its resources. Management review should be treated as a learning experience for both levels. Management should learn about the

scope of issues and performance challenges the organization faces and that need to be addressed. Operational personnel should learn about the strategic direction and business objectives of the organization. In this way, both levels assume ownership and accountability for improved performance. Consider telephone and web conferencing when it is not possible or cost effective to meet in person. This enables personnel who are in different locations and are responsible for key performance areas to participate remotely.

In many junior companies, most professional field people are contractors who have a looser attachment to the company than a normal employee would have. However, these contract professionals are the face, arms and hands of the company in the field. In some cases, the contract professional may be working for more than one exploration company during the year and these companies may have completely different operational methods. As a result, getting the buy-in from a contract professional to participate in a management review process may be more difficult. When engaging contract professionals, explorers should:

- make it a requirement of the terms of engagement that the professional participate and provide input into management review;
- set up a process to debrief professionals regularly during work assignments so that, if they cannot participate directly in the management review, their insights can be captured and incorporated into the management review.

**Use management review to assess how you can improve the effectiveness of your plans and processes.** Questions to consider include:

- Are we meeting our regulatory obligations and standards of best management practice?
- Are roles and responsibilities clear and do they make sense?
- Do we have the necessary resources and are we applying resources appropriately?
- Are the procedures and processes clear and adequate? Do we need others? Should we eliminate some?
- Are we engaging appropriately with stakeholders?
- How effective are our measurement and assessment systems?
- Is there a better way? What else can we do to improve?

**Use management review to assess how changing circumstances influence your plans, process and objectives.** Changing circumstances might be internal to your operations (such as new personnel, new areas of operation, financial constraints) or they might be external factors (such as new laws, new international standards or norms, new stakeholder expectations, changes in political or social risks). Questions for you to

consider include:

- Are there new internal constraints that impact our ability to meet our commitments?
- Have our business objectives changed?
- What stakeholder concerns/opportunities have arisen since the last review?
- Are there changes to laws or regulations, international norms or best management practices that impact or performance?
- Are there changes in the social and political risks in the areas in which we operate?
- Are there any new risks associated with the actions of our partners, agents, suppliers or contractors?
- Are our policies, commitment and performance objectives still relevant to what we do?
- Do changes require us to change some of our approaches?

**Develop action plans and follow through.** Translating decision-making into results requires processes to develop and execute on action plans. Make sure that someone records what issues were discussed, what decisions were made and what solutions were selected during management review.

Document the actions that need to be taken to implement the solutions chosen. Milestones for progress and completion of action steps should be set, responsibilities and accountability should be clearly assigned and the resources required to complete the tasks should be defined. Ensure that there is follow-up after documenting the action items, so that action items are tracked to completion. Reviewing the adequacy and progress of action items from previous management reviews should be a standing item of every management review.

**Table 2: Standard Management Review Agenda**

Agenda Topic	Information and Data Required
<p><b>1. Review of progress and closure of actions from the previous meeting</b></p>	<ul style="list-style-type: none"> <li>• Action item tracking sheet, updated with status of actions, description of any problems encountered and any proposed changes to action items.</li> </ul>
<p><b>2. Review performance for the period under review</b></p>	<ul style="list-style-type: none"> <li>• Summary of progress towards objectives and targets.</li> <li>• Status of compliance with laws, regulations or company policies.</li> <li>• Performance related to areas of significant impact or high risk activities (from Project Plans).</li> </ul>

<p><b>3. Identify changing risks and opportunities</b></p>	<ul style="list-style-type: none"> <li>• Summaries of any safety, environmental and social incidents that occurred during the period. The summaries should provide:             <ul style="list-style-type: none"> <li>○ brief outline of the incident;</li> <li>○ identification of the root or underlying causes; and</li> <li>○ any corrective action taken.</li> </ul> </li> <li>• Summary of any key issues raised through internal or external grievance procedures.</li> <li>• Summary of any key issues identified during community engagement activities.</li> <li>• Results of audits or other performance assessments that may have occurred during the period.</li> <li>• Feedback from operational personnel.</li> <li>• Any significant changes in the political and social context in which operating activities are taking place or proposed.</li> <li>• Changes or proposed changes to laws and regulations.</li> <li>• Changes or proposed changes to international norms, industry standards, or best management practice.</li> <li>• Changes or trends in community expectations and broader societal expectations (e.g., feedback from NGOs, government agencies, industry associations).</li> </ul>
<p><b>4. Assess the effectiveness, suitability and continued adequacy of plans and processes, including project plans</b></p>	<p><b>Evaluation and Analysis</b></p> <p>Based on the trends and issues that flow out of the performance review and the changing risks and opportunities:</p> <ul style="list-style-type: none"> <li>• Identify any corrective and preventive actions that are required to improve performance and avoid future problems. Confirm those already taken.</li> <li>• Determine the need for changes to management processes, objectives and targets, project plans, etc.</li> <li>• Review commitments and policies, to ensure that they still meet the requirements of the organisation.</li> <li>• Define requirements for training and communication as a result of proposed changes.</li> </ul>
<p><b>5. Establish action plans to improve performance</b></p>	<ul style="list-style-type: none"> <li>• Define the specific tasks that need to be taken.</li> <li>• Establish the timeframe for completion.</li> <li>• Determine the resources required.</li> <li>• Assign responsibility for tasks and tracking progress with completion target dates.</li> </ul>

## 1.6 Grievance and Complaints Mechanisms

### Introduction

To achieve compliance with their commitment to the Responsible Exploration Framework, explorers need to provide mechanisms through which internal and external parties feel encouraged to come forward with concerns or grievances without fear or risk of reprisal. Internal parties include employees, business partners, suppliers, contractors and agents. External parties include members of the local community and the general public.

Grievance or complaints procedures function both as an effective early warning system and a dispute resolution process. They can help your company to identify and address many areas of risk, including:

- fraud, bribery, conflict of interest, and other forms of ethical misconduct;
- human rights abuses;
- safety hazards; and
- risks to the environment.

Establishing such procedures can:

- give you an opportunity to correct the immediate problem and prevent future problems;
- help you identify and address risks before they become liabilities, for example by addressing allegations of corruption and human rights abuse;
- establish good will and enhance your company's reputation;
- prevent community concerns from escalating into resistance;
- build the confidence of internal and external stakeholders; and
- demonstrate your company's commitment.

### 1.6.1 What Is a Grievance Procedure?

A grievance procedure is a standardized set of steps to follow to achieve resolution of a complaint or a problem. There are two types of grievance processes.

The first type of process can be characterized as an early warning system that is designed to handle problems or concerns reported by parties internal to the organization (typically an employee). In the early warning system, parties (typically employees) may raise concerns about a danger, illegality or wrongdoing within the organization that has the potential to harm the organization or harm others. Whistleblowing procedures are examples of this

### Key Terms

**grievance** is an issue, concern, problem or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. [IFC Guide to Designing and Implementing Grievance Mechanisms for Development Projects](#)

**grievance procedure** is a standardized set of procedures to follow when someone has a complaint or a problem

**whistleblowing** is when an employee or worker reports wrongdoing within an organization to internal or external parties. Internal whistleblowing entails reporting the information to a source within the organization. External whistleblowing occurs when the whistleblower takes the information outside the organization, such as to the media or regulators.

type of grievance procedure.

The second type is a dispute resolution process. It is designed to deal with situations where the person making the complaint is directly aggrieved and expects some form of redress. Typically, this begins with a step that provides for some form of self-management of the complaint by those immediately involved, with escalation to higher levels of management or others in the event that lower-level resolution does not work. There is also an alternative procedure, to be used if several successive attempts at resolution have failed. Typically this involves some form of externally facilitated negotiation or resolution, such as arbitration.

Most grievances involving a dispute can be resolved quickly at the self-management stage, by correcting a misunderstanding or with a simple negotiation. In this case, the grievance procedure saves time, money and the relationship between the parties. Having the issue handled by those immediately involved is also a benefit, as they often know more about the problem at hand and may have an existing relationship with the concerned parties.

The exact design and scale of grievance procedures need to be tailored to the subject matter and the audience or users of the procedure. For example, mechanisms that will be effective in encouraging employees to report on and seek advice on ethical issues may not be appropriate for external parties, such as members of a local indigenous community. The formality of procedures will also depend on the subject area covered, the target audience and the size of the organization and its operations. For example, a process set up to solicit concerns from the local community related to potential abuses from security forces would likely require more formality than one related to general community complaints related to noise, traffic or dust. Explorers will require procedures that serve as early warning systems, provide dispute resolution and accommodate different levels of formality, depending on the subject matter and the situation of the concerned parties.

Explorers may have to establish a number of different processes to ensure that they are informed and responsive to potential risks. The following types of procedures should be considered:

- Internal whistleblowing procedure to encourage reporting related to: adherence to the Code of Ethics (bribery, corruption, conflict of interest, fraud, etc.) and conformance to your organization's policies and commitments to human rights, safety and the environment. The whistleblower procedure should cover individuals within the organization as well as external parties who conduct business with the organization. Many exploration companies rely on contractors, casual

### Key Reference Sources

[Rights-Compatible Grievance Mechanisms: A Guidance Tool For Companies and Their Stakeholders](#), Corporate Social Responsibility Initiative, John F. Kennedy School of Government, Harvard University, January 2008. This reference provides comprehensive guidance for designing rights-compatible, dialogue-based grievance mechanisms at the operational level between companies and communities.

[Policy Guide & Template Whistleblowing](#), *People In Aid*, Created December 2002, Revised in 2008. This policy guide was developed for international aid agencies, but provides a quick, easy and useful reference source for explorers on internal whistleblowing or wrongdoing policy.

[IFC Guide to Designing and Implementing Grievance Mechanisms for Development Projects](#), IFC 2008. This guide consolidates knowledge and lessons regarding grievance resolution from various sources.

labour, agents and business partners to conduct operational activities and business negotiations on their behalf. These are parties that are external to the organization but to which such procedures should apply.

- Procedures to enable local communities, affected individuals or representatives acting on their behalf to report concerns related to the impact of exploration activities or actions of company personnel or those of agents and contractors working on the company's behalf .
- Special grievance procedures should be established for situations where the company contracts private firms or state personnel to provide security services.

### **1.6.2 Recommended Practices**

While different processes with different levels of formality may be required, depending on the audience and subject area, there are some standard elements of a good grievance or complaints procedure. The procedure should:

- encourage the target audience to raise concerns;
- clearly state what kinds of problems and complaints it covers;
- use language that is easily understood;
- be accessible internally and externally;
- be developed in a culturally sensitive manner, considering the languages and customs of those who will be using the system;
- outline the different options available to the person reporting the concern (self-management, informal, formal, external);
- provide examples of the types of outcomes available through the procedure and set out the steps involved in each of the options;
- provide time frames for completing each step, if possible;
- define the principles of natural justice for dispute resolution, explain how they apply and provide information on an appeal system;
- define the process for maintaining confidentiality;
- state what types of documentation are required, how documentation will be stored and who will have access to it;
- outline a process for raising concerns about victimization;
- provide contact details for relevant people within and outside the organization who can provide information and assistance;
- include provision for regular review of the procedure; and
- describe how concerns will be investigated once received and whether and how the person reporting should expect to receive any feedback.

Two examples of a grievance procedure are provided at the end of this section.



One is a whistleblowing procedure for receiving and responding to internal concerns of wrongdoing; the other is a procedure to respond to and resolve concerns or complaints from members of local communities. These procedures are only designed to provide explorers with some ideas of where to start in developing grievance processes. Care should be taken to adapt and tailor them to the specific needs of the organization.

Grievance procedures do not necessarily have to be formal or elaborate. For small companies, internal whistleblowing procedures may consist of a few lines in an employee manual or the designation of a single point person to deal with problems as they develop. Procedures to respond and resolve complaints from communities typically require more formality, to provide greater awareness and certainty of the process for community members.

### **1.6.3 Other Considerations for Explorers**

**Training:** Explorers should train the persons responsible for dealing with internal and external grievances, to ensure that matters brought to their attention are resolved in accordance with specified procedures, in a way which will provide meaningful resolution of those matters. Such training is particularly important in smaller organizations, where supervisors likely will have the primary responsibility for dealing with grievances and where the organization likely will not have support functions, such as human resources, environmental or community relations. Explorers may wish to consider bringing in an outside expert in grievance management to conduct the training. In all cases, through a combination of training and experience, the person responsible for receiving and handling grievances should be able to demonstrate:

- awareness and sensitivity to the cultural and social context of the operation and capacity to handle a grievance in a culturally appropriate manner;
- understanding of the sensitivities and impediments to reporting complaints by employees, contractors or members of the community; and
- knowledge and awareness of the issues that may be reported (e.g., corruption, fraud, discrimination).

Employees, contractors, agents and business partners should be trained on internal whistleblowing procedures and community grievance procedures. Training on internal whistleblowing procedures should emphasize the importance of reporting concerns immediately, unless there are reasonable grounds to believe that it would endanger their own or another person's personal safety. Training on community grievance procedures should emphasize respect for the concerns of the community and the importance of

immediately elevating any complaints they receive to the company's attention.

Employee training can be provided internally or by an outside party. Employees also can be informed through employee handbooks or information can be posted throughout the company and on Intranet sites.

Contractors and agents should be briefed on procedures as part of engagement processes. Explorers should require contractors and agents to demonstrate that they have communicated grievance procedures to their employees.

**Provide alternatives:** Informal procedures are effective in small organizations, enabling parties to report concerns directly to line manager who can most readily act on them. However, explorers should specify alternative avenues for parties to register concerns within the organization where they do not wish to approach the immediate line manager. Alternative avenues can include a telephone hotline or a designated manager or officer reporting to the most senior person in the organization. For grievance procedures for local communities, explorers may wish to consider using a party external to the company, such as a respected member of the community, respected NGO working in the area or a community liaison committee.

**Publicize procedures:** Having procedures in place is only effective if they are used. Explorers should publicize the complaint mechanism using methods that will reach the target audience. This will be much easier for internal than external stakeholders.

When engaging with indigenous and local communities, explorers will need to consult on the most appropriate methods for listening to, documenting and responding to complaints and concerns. Vulnerable groups, such as children or women, may not have access to mechanisms to report their concerns. By creating a climate of open communication, supported by a clear procedure for dealing with concerns, companies can help to build trust, reduce opportunities for misconduct and ensure that concerns are dealt with expeditiously.

Upper management, including the CEO, should encourage whistleblowing by employees, agents and contractors and demonstrate receptiveness to public concern. A commitment to whistleblowing should be communicated to and by line managers at all levels. Top management should make efforts in memos, newsletters and speeches to talk about the organization's commitment to ethical behavior and responding to concerns. To create a culture of openness and honesty, it is important that internal and external stakeholders hear about the policy regularly. Publicly acknowledging and rewarding employees who report wrongdoing or raise concerns is one way to send the message that management is serious about addressing issues before they become endemic. Similarly, responding promptly and transparently to complaints from the

community reinforces confidence in the company's commitment to resolving community concerns.

**Confidentiality:** Confidential and anonymous reporting should be permitted. Confidentiality is important, because it creates an atmosphere where persons can feel safe about submitting their names with their claims, thereby enabling access to further information to aid any future investigation. By their nature, anonymous claims are more difficult to investigate. Consider establishing hotlines, anonymous voicemail and anonymous e-mail or secure suggestion drop boxes to facilitate the complaint process.

Explorers should disclose the identity of the complainant only if the complainant agrees to such disclosure. Explorers should use all reasonable efforts to keep reports confidential.

**Safety and discrimination:** Person(s) making reports in good faith should be assured that they will not suffer any adverse discrimination as a result. Explorers should take all reasonable steps to protect the identity and safety of any individual who has made a report in good faith. The safety and confidentiality of such persons will be particularly important in locations where there are concerns of security, inter-group tension and discrimination or evidence of institutionalized human rights abuse.

**Responsibility:** The person(s) responsible for dealing with complaints should be assigned the responsibility and authority to:

- ensure that concerns raised are taken seriously;
- investigate thoroughly and make an objective assessment of the concerns;
- keep the complainant advised of progress; and
- ensure that the action necessary to resolve a concern is taken.

This does not require a specialist or person who is solely dedicated to this function. Delegate the responsibilities to your operations level managers, but train them first and give them the skills and authority to make people decisions. Good field supervisors are the eyes, hands and ears of the organization. However, if they are not properly trained, they can expose the organization to morale problems and exacerbate disputes with the community.

**Senior management involvement:** A director should be appointed to take ultimate responsibility for investigating and dealing with any serious allegation of misconduct, such as a report of bribery, fraud or violation of human rights, and ensuring that the individual who made the report is properly protected and does not suffer any adverse discrimination.

Larger organizations should consider appointing a compliance officer that reports to the Board of Directors. Trends in complaints and the grievance procedures themselves should be reviewed periodically by the Board or, where in place, the audit committee of the Board.

**Documentation:** Concerns should be recorded in writing and kept for as long as may be necessary. Concerns may indicate violations of laws and regulations. Procedures should be in place for seeking legal advice and ensuring information is available in the event criminal proceedings.

**Follow-up:** Explorers should keep the individual who made the original report informed of the action being taken, to the extent that this information does not prejudice any investigation or endanger the safety of the employee or any other person. Silence and perceived inaction will generate cynicism about the seriousness of an organization's commitment and will damage the trust-building process

**Monitoring:** Complaints should be reviewed regularly and trends should be identified. In addition to addressing immediate concerns, explorers should use information from grievance processes to review controls within the organization and identify areas that may need improvement.

**Transparency:** While respecting the confidentiality of sources, investigations and dialogue with complainants, companies should report regularly on the number and type of concerns that have been raised and the actions taken to resolve them.

Transparency is particularly important for community complaints processes. In these cases, reporting to an established community or stakeholder committee can be an effective way to provide transparency and also provides a vehicle to discuss recurring issues and identify actions to resolve them.

### 1.6.4 Sample Whistleblowing Procedure

#### Explorer Co. Wrongdoing Reporting Procedure

##### 1. Introduction and Purpose

1.1 Explorer Co. believes that open communication throughout the organization and with our contractors, agents and others who work for or on our behalf promotes better operating practices.

1.2 It is our commitment to conduct ourselves with honesty and with integrity at all times. Explorer Co.'s policies (e.g., Code of Ethics, Environmental policy, Social Responsibility policy) require Directors, Officers, employees, and contractors, agents and others who work for Explorer Co. on our projects to:

- comply with all applicable laws and regulations;
- respect human rights;
- protect the environment;
- maintain a healthy and safe working environment; and
- observe high standards of business and personal ethics in the conduct of our duties and responsibilities.

1.3 All organizations face the risk of wrongdoing within their organizations. We believe we have a duty to take appropriate measures to identify such situations and attempt to remedy them.

This procedure is intended to:

- encourage anyone working for or on behalf of Explorer Co. to raise genuine concerns about wrongdoing without fear of reprisal; and
- identify issues of potential wrongdoing at an early stage so that corrective and preventive action can be taken in a timely and appropriate manner.

## **2. Scope**

2.1 This procedure applies in all cases where there is a genuine concern of wrongdoing, regardless of the jurisdiction.

2.2 This procedure applies to anyone working for or acting of behalf of Explorer Co. on a project or activity; this includes Directors, Officers, regular and casual employees, contractors and their employees, agents and business partners.

2.3 Wrongdoing includes, but is not limited to, actions that could lead to:

- breaches of legal obligations (laws and regulations, permits and licenses, negligence, breach of contract);
- breaches of the Code of Ethics (fraud, corruption and conflict of interest);
- health and safety hazards;
- failure to respect human rights;
- incorrect financial reporting;
- damage to the environment; and
- the concealment of any of the above.

## **3. Responsibilities**

3.1 Overall authority for this procedure sits with \_\_\_\_\_.

(Note: This should be a senior person within the company who has the ability to take action and manage the process.)

3.2 Managers and Field Supervisors have primary responsibility to promote the effective implementation and application of this procedure and to ensure that anyone working for or on behalf of Explorer Co. on any project or activity:

- understands their responsibility to raise concerns; and
- is capable of and feels able to raise concerns without fear of reprisals.

3.3 Anyone working for or acting of behalf of Explorer Co. on a project or activity is responsible for taking steps to disclose any wrongdoing of which they become aware.

#### **4. Safeguards**

##### *Good Faith Reporting*

4.1 Anyone reporting wrongdoing must be acting in good faith and have reasonable grounds for believing the information and should exercise due care to ensure the accuracy of the information disclosed.

4.2 If an individual makes an allegation of wrongdoing in good faith and the allegation is not confirmed by subsequent investigations, no action will be taken against the individual.

4.3 Disciplinary action may be taken against the individual making an allegation, however, if that individual makes an allegation frivolously, or maliciously raises a matter they know to be untrue or without reasonable grounds or the individual making the allegation is involved in any way in the malpractice.

##### *Protection*

4.4 Explorer Co. will treat all disclosures of wrongdoing seriously and ensure anyone who raises a concern in good faith is protected against harassment, retaliation or adverse employment consequences.

4.5 Any representative of Explorer Co. who retaliates against someone who has reported a violation in good faith is subject to discipline, up to and including termination of employment or removal from the Board.

#### **5. Confidentiality**

5.1 Every effort will be made to keep confidential the identity of anyone reporting a wrongdoing.

5.2 In order not to jeopardize the investigation, anyone reporting wrongdoing also will be expected to keep the report confidential.

5.3 There may be circumstances in which, because of the nature of the investigation or disclosure, it will be necessary to disclose the identity of the complainant. This may occur in connection with associated disciplinary or legal investigations or proceedings. In these circumstances, the implications for confidentiality will be discussed with the complainant.

## **6. Procedure for Raising a Concern**

6.1 Explorer Co. has an open door policy and encourages employees and others working for or on our behalf to raise questions, concerns, suggestions or complaints related to wrongdoing with someone who can address them properly. In most cases this will be the \_\_\_\_\_ (Note: This should be someone in the supervisory role closest to the operating activity). This is the best position to address an area of concern.

6.2 However, if the complainant is not comfortable speaking with the supervisor or not satisfied with the supervisors' response, the complainant is encouraged to speak with the \_\_\_\_\_ (the senior person responsible for the procedure or someone within the organization assigned responsibility for receiving and investigating reports) or anyone in management whom the complainant is comfortable approaching.

6.3 If the complainant is not comfortable speaking with an Explorer Co. manager or supervisor, the complainant can send an e-mail to \_\_\_\_\_ by clicking here or call the hotline at \_\_\_\_\_.

6.4 A concern may be reported on a confidential basis or may be submitted anonymously. However, complainants who wish to remain anonymous should be aware that anonymous reports are more difficult to act upon, since there may be little evidence upon which to initiate an investigation and the investigator cannot obtain further information from the complainant. It is also difficult to ascertain whether the disclosure was made in good faith.

6.5 A concern may be reported verbally or in writing. The complainant should provide full details of the concern and, if possible, supporting evidence. The complainant should disclose any personal interest in the matter.

6.6 This procedure is not intended to replace the Grievance Procedure, which continues to be the appropriate way to raise personal issues relating to a complainant's specific job or employment.

## **7. How Reports of Wrongdoing Are Handled**

7.1 All reports will be taken seriously and will be promptly investigated. Investigations will commence within \_\_\_\_\_ business days.

7.2 A manager and investigator will be assigned to handle the matter. Both the manager and investigator will be independent of and will have had no previous involvement in the matter. This manager will be someone who has the authority to take the necessary action, based on the outcome of the investigation

7.3 An initial assessment will be conducted to determine whether an investigation is appropriate and the scope and form of investigation that should take place.

7.4 The length and scope of the investigation will depend on the subject matter of the concern.

7.5 For some concerns, it may be more appropriate for the manager to take a more informal approach to dealing with the matter without need for an investigation. This may occur where there is not sufficient evidence of wrongdoing or the actions of the individual(s) are not serious enough to warrant disciplinary action,

7.6 The complainant may be asked to provide more information during the course of the investigation.

7.7 Part of the goal of the investigation is to provide recommendations on corrective and preventive actions that should be taken.

7.8 Where, as a result of investigation, a wrongdoing is confirmed, appropriate action will be taken, including:

- initiating a disciplinary process, or informing external authorities if a criminal action has been committed (e.g., fraud or theft);
- to the extent possible, redressing or mitigating the consequences of any wrongdoing; and
- preventing the risk of the recurrence.

## **8. Communications with the Complainant**

8.1 The complainant will receive the following information:

- acknowledgement that the complaint was received;
- how the matter will be dealt with;
- estimated time for final response;
- status of the investigation process; and
- subject to legal constraints, information of the outcome of the investigation.

8.2 If a complainant is not satisfied with the actions taken in response to a report of wrongdoing, the complainant should raise the matter with the \_\_\_\_\_, outlining the reasons for dissatisfaction. If the complainant has asked to remain anonymous, care will be taken to respect this request (see Confidentiality above).

## **9. Monitoring and Reviewing**

9.1 Explorer Co. will maintain a register of complaints received, the results of investigations and the actions taken.

9.2 The register will be reviewed semi-annually to identify trends and used as input into management review process to determine:

- actions required to prevent problems by changing practices at the operating level; and



- changes needed to overall company policies and systems.

### **1.6.5 Sample Community Complaints Procedure**

#### **1. Introduction and Purpose**

1.1 Explorer Co. is committed to treating the members of the communities in which we operate with fairness and respect and it is our goal to maintain the trust and confidence of the community. We believe this can only be achieved through open, frank and informative dialogue. Providing a trusted channel for individuals or groups to raise concerns early, openly, on an informed basis and in an atmosphere of respect cannot only help resolve, but also to prevent full-blown disputes or conflicts.

1.2 The purpose of this procedure is to:

- document, investigate and resolve community concerns promptly and effectively;
- provide members of the community with an effective and efficient means of reporting concerns related to our activities and operations;
- provide a clear procedure for dealing with concerns;
- communicate effectively throughout the complaints procedure with a community member reporting a concern; and
- monitor complaints about our activities and use this information to help us review and improve our operations.

#### **2. Scope**

2.1 The procedure applies to all:

- jurisdictions in which we carry on business and in all affected communities; affected communities are communities where we carry out operations or that may be impacted by our operations in some way;
- members of affected communities or anyone acting on their behalf;
- complaints related to the impact of Explorer Co. activities and operations on members of affected communities.

#### **3. Responsibilities**

3.1 Overall authority for this procedure sits with \_\_\_\_\_.

(Note: This should be a senior person within the company who has the ability to take action and manage the process)

3.2 Operations Managers (Note: These should be the senior persons in charge of operations in the field) have primary responsibility to promote the effective implementation and application of this procedure and to:

- ensure that anyone working for or on behalf of Explorer Co. on any project or activity understands the importance respecting the concerns of affected communities;
- communicate this procedure to affected communities in their area of operations; communication should be in the local language(s) and appropriate to the social and cultural context of the operating area; and
- Ensure anyone working for or on behalf of Explorer Co. or any member of the affected communities feels able to raise concerns without fear of reprisals.

3.3 Anyone working for or acting of behalf of Explorer Co. on a project or activity is responsible for reporting immediately any complaints they may receive from members of affected communities.

#### **4. How to Report a Complaint**

##### *Reporting Methods*

4.1 Any member of an affected community may raise a concern by phone, in writing or in person to \_\_\_\_\_ (Note: This should be the local representative of the Explorer Co. that has most immediate contact with the community).

4.2 However, if complainants are not comfortable speaking with the \_\_\_\_\_ or are not satisfied with their response, complainants are encouraged to:

- speak with the \_\_\_\_\_ (the senior person responsible for the procedure or someone within the organization assigned responsibility for receiving and investigating reports) or any representative of Explorer Co. whom the complainant is comfortable approaching;
- send an e-mail to by clicking here; or
- call the hotline at \_\_\_\_\_.

4.3 Any member of an affected community that has a complaint but is not comfortable raising the matter personally with an Explorer Co. representative, can:

- report the complaint to any member of the Community Stakeholder Committee, who will then submit the concern on the complainant's behalf. (Note: Where a Committee is established, this Committee can function as a forum for receiving complaints and concerns from community members); or
- appoint someone the complainant trusts to raise the concern on the complainant's behalf; this may be another community member or NGO.

*Confidentiality*

4.4 The person lodging the complaint can do so in confidence. Every effort will be made to keep the complainant's identity confidential. In some cases, in order not to jeopardize the investigation, we also may ask the complainant to keep the report confidential.

4.5 There may be circumstances in which, because of the nature of the investigation or disclosure, it will be necessary to disclose the identity of the complainant. This may occur in connection with associated disciplinary or legal investigations or proceedings. In these circumstances, the implications for confidentiality will be discussed with the complainant.

*Protection*

9.3 Explorer Co. will ensure anyone who raises a complaint is protected against harassment, retaliation from any representative of Explorer Co.

9.4 Any representative of Explorer Co. who retaliates against someone who has reported a concern is subject to discipline, up to and including termination of employment or removal from the Board.

**5. How Complaints Are Handled**

5.1 The Explorer Co. representative receiving the complaint shall complete Form 001 – Community Complaints Report, noting: the time and date of complaint; name, address and contact number (if possible) of the complainant; the means of communication; and the nature of the complaint. (Note: This can be a paper form, an on-line form or simply an e-mail with the details. However, there should be some mechanism of logging the concern, tracking its status and documenting the outcome.)

5.2 The complaint will be forwarded to \_\_\_\_\_ (Note: This should be someone at the local level or with contact at the local level (e.g., Project Manager) that can appoint someone to manage and investigate the complaint. However, care has to be taken to ensure that this person is independent of the matter and capable of acting objectively.)

5.3 The \_\_\_\_\_ (Note: This should be a senior company representative who can escalate action on the concern to mitigate impact and protect the company) should be informed immediately of community concerns of a significant nature. Examples of a significant concern can include:

- allegations of corruption or fraud;
- violations of local laws;
- infringement of human rights;
- damage to environmental or cultural resources; and
- injury to members of the community.

5.4 Explorer Co. will assign a Complaints Manager. The Complaints Manager is a company representative independent of the matter who will investigate the concern, communicate with the complainant and take the necessary action on the outcome of the investigation to resolve the complaint.

5.5 An initial assessment will be conducted to determine whether an investigation is appropriate and the scope and form of investigation that should take place.

5.6 The length and scope of the investigation will depend on the subject matter of the concern. Depending on the complexity and sensitivity of the issues involved, the Complaints Manager may appoint an Investigator to carry out the investigation or seek the assistance of an external neutral party to participate in the investigation.

5.7 The primary goal of the investigation is to ascertain the facts underlying the complaint and provide recommendations on corrective and preventive actions that should be taken to resolve the concerns and provide redress as appropriate.

5.8 The Complainant may be asked to provide more information during the course of the investigation.

5.9 The Complaints Manager will record details of actions taken in Form 001 – Community Complaints Report. Additional pages and reference documentation should be attached to the complaint form as appropriate to ensure that the complaint, background information and resolution is clearly documented.

5.10 Where an investigation identifies wrongdoing by company personnel or anyone acting on behalf of the company, appropriate action will taken, including:

- to the extent possible, redressing or mitigating the consequences of any wrongdoing;
- initiating a disciplinary process or informing external authorities if a criminal action has been committed (e.g., fraud or theft); and
- preventing the risk of recurrence.

5.11 Where an investigation identifies that a complaint is justified Explorer Co. will take prompt and appropriate action to provide redress to members of the community who have been aggrieved by our actions or operations. Redress is about putting things right when they go wrong. Redress needs to be tailored to the circumstances and can involve a variety of responses, such as:

- an explanation and an apology;
- action to ensure the problems do not happen again;
- remedial action to correct the impact or consequences of the activities giving rise to the complaint; or

- in exceptional cases, compensation for damages to those aggrieved by the activities giving rise to the complaint.
- Confidentiality

## **6. Communications with the Complainant**

6.1 Explorer Co. will acknowledge the receipt of a complaint within five working days and respond to the complainant in full within 15 working days.

6.2 Where it is not possible to respond in full within this period, due to the scope of the investigation, the complainant will be informed of that situation within 15 days and every five days thereafter and the performance will be monitored on a regular basis.

6.3 To the greatest extent possible, given the nature and circumstances of the complaint and the preference of the complainant, the Complaints Manager should enter into dialogue with the complainant to better understand the nature of their concerns and identify appropriate actions to resolve the matter.

6.4 When the Complaints Manager is satisfied that they have gained sufficient information through the investigation and have a proposed resolution, they will contact the complainant and inform them of their investigation and any actions taken or to be taken, as appropriate, to resolve the issue.

6.5 The Complaints Manager will provide information that is factual, unbiased and, wherever possible, scientifically based, in an effort to address the concerns to the satisfaction of the complainant.

6.6 If an initial assessment or subsequent investigation of complaint identifies that the complaint is frivolous, vexatious or in some other way entirely inadmissible, this conclusion and the reasons for it should be communicated to the complainant. If the complaint is not withdrawn, the conclusion and its reasons should be disclosed to the Community Stakeholder Committee and, if necessary, the community at large.

6.7 In cases where the complainant continues to be dissatisfied, the complainant will be informed of their right to refer the complaint to the attention of \_\_\_\_\_.  
(Note: This can be a person within the company or it could be someone who can facilitate an alternative dispute resolution process.)

## **7. Monitoring and Reviewing**

7.1 Explorer Co. will maintain a register of complaints received, the results of investigations and the actions taken to resolve complaints.

7.2 The register will be reviewed (monthly) at the operations level and semi-annually across the organization.

7.3 The monthly reviews will be used to:

- provide reports to community residents through the Community Stakeholder Committee;
- identify issues that need to be raised with the Community Stakeholder Committee for discussion and resolution at a community level; and
- identify trends that require actions to prevent problems by changing practices at the operating level.

7.4 The semi-annual review will be used as input into the management review process to identify the need for changes to overall company policies and systems.

## 1.7 Reporting Performance

### Introduction

Explorers should periodically report their environmental, social and safety performance to internal and external stakeholders. The motivation and rationale for reporting performance will vary with the audience; so too will the scope and subject matter of reporting and the methods used to report. However, while the rationale for reporting varies, depending on the audience there are two unifying themes: accountability and transparency. Accountability and transparency are fundamental principles of socially responsible behaviour and keystones of good governance and reputation management.

Responsibility is the obligation to act; accountability is the obligation to answer for an action. Accountability is about explaining what you are doing, why, how and the consequences or results of your decisions and actions. Transparency is about being open and honest to those to whom you are accountable. Accountability depends upon and is driven by transparency.

### Why Report?

Performance reporting is the mechanism by which an organization accounts to its stakeholders for its performance in relation to a specific program or activity, in light of agreed upon expectations. The expectations can be explicit – such as those defined in law, a documented agreement or specific performance target. Or, expectations can be implied – such as the social license to operate, given to an explorer by a local community-based on expectations that an explorer will operate responsibly. Expectations may be legally mandated or voluntarily assumed.

Companies report performance to different audiences, based on different obligations and expectations. For example, explorers have a regulatory responsibility to account to regulators, shareholders and investors. They may have contractual expectations to their insurers, lenders or partners. They will have an ethical or social obligation to account to stakeholders impacted by their actions in a significant way, such as a local community living in proximity to their activities. They also will have internal obligations to report to the Board, management and personnel based on operational expectations to improve performance, manage risk and demonstrate due diligence.

Table 1 illustrates the different expectations and rationale for performance reporting in relation to different audiences.

### What Should Be Reported?

Information used in performance reporting can be qualitative or quantitative. The type of information reported should be relevant or “material” to the audience to which the reporting is targeted. However, the same information is

### Key Terms

**audit** is a systematic, independent and documented process for obtaining evidence and evaluating it objectively, to determine the extent to which criteria are fulfilled (ISO 19011)

**evaluation** is an assessment process designed to determine the effectiveness and impact of what was or is being done

**monitoring** is the day-to-day management task of collecting and reviewing information that reveals how an operation is performing and what, if anything, needs to change to improve performance

**verification** is an independent review process to confirm or authenticate performance by seeking additional proof.; auditing is the most common form of verification process

likely to be relevant to more than one audience. Table 2 provides an example of how different types of information may be relevant to different audiences. To be effective, performance reporting should be tailored to the needs of the audience, both in the type of information reported and the tone and presentation of the information

In this section, we will provide general guidance on reporting to different audiences. We also will provide a brief introduction to sustainability or social responsibility reports. There is substantial guidance available on how to develop sustainability or social responsibility reports, so this will not be covered in detail in this section. However, references to key internal sources are provided.

### **1.7.1 Methods of Communicating Performance**

If explorers are to spend money and resources on data collection and reporting, those resources should return maximum value, both in terms of meeting company business objectives and satisfying stakeholder expectations. Reporting in itself is not the end goal. Transparency and accountability are the goals and these depend on a commitment to communicate effectively with stakeholders. Explorers should use multiple communication methods and tailor content, format and delivery to the needs of the intended audience. There are several effective methods for communicating performance:

**Face-to-Face communications:** Information can be presented orally, at regularly scheduled meetings or special events. This includes internal business meetings, public meetings, annual meetings of shareholders, open houses – in essence, any event where information can be presented and discussed.

**Annual reports:** Many companies now publish print or web-based annual sustainability or social responsibility reports or include reporting on social, environmental and safety performance in their annual financial reports. Annual reports are geared to a broader audience and typically follow a standardized reporting format. Annual financial reports for publically traded companies must meet regulatory disclosure requirements applicable in the jurisdiction in which the company's stock is listed.

**Performance publications:** Short documents communicating performance can take many forms, including newsletters, internal memos, information circulars, performance report cards, etc. These documents are typically written for a distinct audience, such as management, employees or a local community, and are focused on the specific subject matter or issues of direct relevance to the target audience to which they are directed. .

**Web-based communication:** Increasingly, performance information is communicated on-line, either through an internal Intranet for employee



audiences or via the Internet for external groups. Social media, such as blogs and Twitter, are other communication tools that are used to reach a broad based audience.

**Regulatory reports:** Companies also submit reports submit to regulatory agencies to satisfy legal requirements. In some cases, these reports, or at least the data from these reports, can be used to communicate performance to other audiences.

**Reports to socially responsible investors:** Socially responsible investment (SRI) funds and indexes request and conduct research on company performance related to governance, social, environmental and safety performance.

**Advisory panels, liaison committees:** Performance information can also be communicated through groups that represent a larger stakeholder audience.

### 1.7.2 Characteristics of Good Reporting

The content and format of performance reporting should be tailored to the type of information being communicated and the intended audience. Good reporting should be:

**Clear:** The purpose of the information, the audience to whom it is directed and how the information is intended to be used should be clear. Other desired aspects of clarity are the assumptions and standards of data collection and reporting used.

**Understandable and accessible:** Information should be presented in a way that is immediately useful, easily understood and consistent with the knowledge and experience of the intended audience. For example, complex graphs and spreadsheets may have little value to a local community or to busy managers that have to decipher the information before they can understand or apply it. However, information about a complex matter that is relevant should not to be omitted simply because it may be too difficult for some users to understand.

Information should be reported to stakeholders in their local languages and easily understandable formats. For example, face-to-face presentations rather than written reports may be the most appropriate method of communicating performance in indigenous and local communities that have a strong oral tradition.

**Timely:** Information should reflect current conditions and be reported within a reasonable timeframe so that the intended audience can take appropriate action.

**Consistent and comparable:** Reporting should contain a core of information that is consistent and comparable, so that the intended audience can assess

progress over time and ideally compare performance with other similar organizations. Attention should be given to ensuring that reported information is also consistent with other company or organizational disclosures.

**Complete:** Reports should provide sufficient coverage of issues to enable stakeholders to draw their own conclusions about a company's performance.

**Accurate:** Information should be free from error and material misstatement. It should give a true, complete and balanced view of the actual situation and faithfully reflect activities and processes.

**Contextualized:** Information should be presented in context so that proper analysis can be made as to the significance of the information. For example, the creation of five full-time equivalent jobs may be insignificant in an urban setting but very significant in a small rural community. Provide an overview of the business activities and operating environment to contextualize the reporting for the audience.

**Balanced:** Information should present a balanced perspective of actual performance without bias in selection and presentation of data. Include successes as well as problem areas or poor performance. Do not gloss over negative impacts. Where there is deviation from plans and commitments, explain why deviations are taking place and where and how improvements will be made.

**Responsive:** Performance reporting should provide information that responds to the actual stakeholder expectations and not what the organization would like its stakeholders to know or "thinks" they want to know. This means that there needs to be dialogue with different stakeholders to enable the organization to understand what stakeholders want to know and how they want information to be communicated. Provide a contact point at the company that can respond to further questions and clarify anything that remains unclear.

**Reliable and verifiable:** Information should be reliable and verifiable. This means that the information is collected, recorded, compiled, analyzed, and disclosed in a manner that would enable an independent person to trace the information and confirm its reliability. The quality of information can only be confirmed if the processes, procedures and assumptions used in preparing the information are transparent.

**Relevant and material:** Information is relevant when it meets the needs of users in forming an opinion or making a decision. Information should help users to evaluate past, present or future performance or confirm or correct their evaluation of performance. Information is material when it focuses on issues of significance to the performance of the organization that could influence users' decisions or actions. See also discussion on materiality in the guidance on [Boundaries of Responsibility](#).

### 1.7.3 Getting Started

Performance Reporting and [Monitoring and Measurement](#) are interdependent activities and should be designed and developed together. The following are steps that explorers should consider in developing their reporting framework:

- Develop and maintain a register of commitments your organization has made and to whom. Tracking progress against these commitments should be a core component of your monitoring program. You should be prepared to report on the actions you have taken, the results achieved and, where there are any material changes to commitments or implementation, what those changes are and why they were made.
- Compliance with regulatory requirements is another core component of monitoring performance and accountability. Identify the information that you are required to make public as a result of the laws, regulations and contracts with which you must abide. Develop and maintain a register of this information, including the scope and frequency of reporting required.
- Engage with stakeholders to understand what information they are interested in receiving and how they would like information communicated. Stakeholder needs can be identified in a range of ways, including advisory panels, opinion surveys, soliciting feedback during workshops and meetings on specific issues, providing feedback forms in published reports or on company websites to encourage stakeholder input.
- Use a table similar to Table 2 to map out what information needs to be reported, to which stakeholders, by what method and how frequently. Some information and methods will apply to multiple stakeholders. The following questions may help you develop the reporting map:
  - Who are your key stakeholders and audiences for receiving information?
  - What are your objectives in reporting performance to each audience?
  - What are their expectations of performance, accountability and transparency?
  - Which of these expectations is material to your organization?
  - What is the current relationship your organization has with each audience? How do you want reporting and transparency to contribute to that relationship?
- Analyze the risks and opportunities of reporting performance information to the different stakeholders identified and develop

strategies for maximizing the opportunities and addressing the risks. Consider the following:

- What information should not be disclosed, to protect your competitive position and proprietary knowledge, or to conform to confidentiality agreements or other contractual requirements?
  - Do you have the existing systems and resources to collect and report meaningful quality information?
  - What challenges might you face as a result of the different cultural and legal standards in the jurisdictions in which you operate?
  - How can you use transparency to improve your competitive position?
  - What conflicts have arisen or may arise as a result of greater openness and transparency with stakeholders?
- Mobilize the resources to report performance. Resources are a major operational constraint for all sizes and types of organizations, but particularly for small exploration companies. The greatest expenditure of resources actually occurs in the data collection and analysis that is part of monitoring performance. By mapping the type of information you need to report and to which audiences, you can define the best method(s) to reach the greatest number of audiences with the same types of information.
  - Organizations face ever increasing demands for information from their stakeholders. You may be overwhelmed by the information you are required to collect and report, but your stakeholders likely are equally overwhelmed by the information they have to absorb. Set priorities, in terms of what you report, to whom and the reporting methods. Work with your stakeholders to identify the information that is most critical to them and the best way to present it. Leverage information that you are already collecting or that is already available (i.e., on a website or elsewhere). In many cases, the difference in reporting to different audiences is not what information you report but how it is reported.
  - Determine when and where to use standardized versus customized reporting frameworks and metrics. A number of external organizations, such as the Global Reporting Initiative (GRI), have put considerable effort into developing standardized reporting frameworks and performance metrics that are intended to provide meaningful information, consistency and comparability in performance reporting. Relying on standardized metrics may make reporting more straightforward, but standardized metrics may not reflect the performance commitments you have made as an organization or

provide meaningful information to your stakeholders. Therefore, when choosing metrics, ensure that you consider the expectations and needs of the different stakeholders to whom you will report performance. It is unlikely that you will find one perfect set of metrics that will meet all of your reporting requirements.

- Standardize and automate reporting functions to the extent practical, as this will help reduce the level of effort and resources required as well as ensure consistency. This is particularly important for internal reporting where reliable access to information is essential for managing performance. Do not get seduced by technology and form versus substance. A simple one-page newsletter or fact sheet produced at reliable frequencies and with information targeted to the needs of the specific audience is more effective and accessible to a local community than a glossy website that only a few community members may be able to access and that contains reams of information that they do not really care about. Similarly, many companies invest large sums of money and resources in performance tracking and reporting software for internal use that does not really deliver value in terms of efficiency or performance improvement. Focus on the topic and goal of what you are trying to communicate and then find the appropriate tools for the job.

### 1.7.4 Sustainability or Social Responsibility Reports

Sustainability or social responsibility reports are targeted at a broad multi-stakeholder audience. Increasingly, these reports are being used by organizations as an integral part of their overall stakeholder engagement and communications strategies. They are complementary to other forms of targeted performance reporting but should not be used as a substitute for reporting back to affected stakeholders about commitments, projects or activities that directly affect them.

The benefits companies that undertake sustainability reports have experienced include:

- improved brand and reputation;
- higher profile and attractiveness to socially responsible investors and investors in general;
- development of corporate systems that drive performance improvements; and
- increased trust and support from key stakeholders (e.g. shareholders, employees and local communities). Employees are a key audience for reports, as they help raise awareness and boost staff loyalty and morale.

These types of reports are expensive to produce and may simply not make sense for many small exploration companies. However, explorers can draw upon existing sustainability reporting guidelines to help them define performance indicators and structure their reporting framework. Instead of separate sustainability reports, explorers can also consider integrating elements of sustainability reporting into the financial annual reports. Explorers can also consider scaled down versions of sustainability reports by drawing on the principles and performance indicators of sustainability reporting guidelines, such as the GRI. GRI already provides for different scales of reporting; however, small explorers can draw upon an even more limited number of indicators to produce an abbreviated performance scorecard or a report that they can manage more practically.

The GRI G3 provides a standardized set of indicators against which companies can measure their sustainability performance. GRI and the International Council on Mining and Metals (ICMM) have developed sector specific reporting protocols for mining and metals companies.<sup>3</sup> The GRI indicators include the following topics:

#### Key Reference Sources

[Sustainability Reporting Toolkit](#) is an on-line tool developed by various Canadian government agencies to assist businesses in learning more about sustainability reporting, assessing the need to report and creating an effective report

[Global Reporting Initiative](#) (GRI) has established indicators and reporting frameworks, as well as numerous resources to assist companies in developing sustainability reports

<sup>3</sup> The Guidelines were issued in draft in April 29, 2009 and are expected to be finalized in 2010.

**ECONOMIC**

Economic Performance  
Market Presence  
Indirect Economic Impacts

**SOCIETY**

Community  
Corruption  
Public Policy  
Anti-Competitive Behavior  
Compliance

**LABOR PRACTICES AND DECENT WORK**

Employment  
Labour/Management Relations  
Occupational Health and Safety  
Training and Education  
Diversity and Equal Opportunity

**HUMAN RIGHTS**

Investment and Procurement Practices  
Non-Discrimination  
Freedom of Association and Collective Bargaining  
Abolition of Child Labour  
Prevention of Forced and Compulsory Labour  
Complaints and Grievance Practices  
Security Practices  
Indigenous Rights

**ENVIRONMENT**

Materials  
Energy  
Water  
Biodiversity  
Emissions, Effluents and Waste  
Products and Services  
Compliance  
Transport

**PRODUCT RESPONSIBILITY**

Customer Health and Safety  
Product and Service Labeling  
Marketing Communications  
Customer Privacy  
Compliance

**STAKEHOLDER ENGAGEMENT**

Basis for identification and selection of stakeholders  
Approach to stakeholder consultation reported in terms of frequency of consultations by type and by stakeholder group  
Type of information generated by stakeholder consultations  
Use of information resulting from stakeholder engagement

**1.7.5 Verification and Assurance of Performance Statements**

Assurance generally means enhancing the degree of confidence that intended users can have in information by an organization. This is typically an evaluation (usually an audit) of the information against a specific set of criteria by an independent third party. The outcome of an assurance exercise is an “assurance statement” or “assurance opinion” containing a conclusion on the quality of the subject matter. More and more companies are moving to have their sustainability reports independently verified or assured by a third party. When considering this as an option, explorers should consider the following questions.

- What are the expectations of our stakeholders, including investors, with respect to third-party verification?
- Will third-party assurance strengthen the credibility of our performance

reporting with our stakeholders?

- Are our stakeholders asking for some form of assurance? Or are they asking for other processes to confirm the reliability of information (e.g., stakeholder assessments)?
- What is the cost of third-party assurance and do the benefits identified warrant the costs?
- Are there other benefits that we could realize from third-party assurance? For example, improved business performance, improved reporting processes and data management or better grasp of reputation risks?
- If we choose not to seek third-party assurance, should we report why?

Explorers should also understand that different levels of assurance are possible on a scale of high to low, as well as both positive and negative assurance opinions and different types of opinions. Explorers can also limit the scope of the assurance by focusing on a select group of important indicators or a selected number of sites. More assurance means more work by the assurance provider and hence more cost.

The recognition of the risk that the auditor's conclusion may be inappropriate is captured in the notion of level of assurance. A major determinant of the type of assurance that can be provided is scope of the evaluation and extent of the procedures adopted, to gather evidence on which to base the conclusion. The higher the level of assurance, the more comprehensive the procedures performed must be.

Audits are assurance engagements designed to provide a high level of assurance. A high level of assurance (usually referred to as reasonable assurance or audit assurance) can usually be provided by designing procedures and following standards that reduce the risk of an inappropriate conclusion to a low level. Other assurance engagements that do not provide a high level of assurance should not be referred to as audits.<sup>4</sup>

Fundamentally, negative assurance indicates nothing came to the attention of the auditor during the audit. Positive assurance indicates the auditor has performed sufficient testing and believes it is very unlikely that there is anything materially wrong with the claims that are being made.

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<sup>4</sup> Other types of assurance engagement include stakeholder surveys and reviews, risk assessments, reviews and assessments.



1.7.6. Reporting Tables

Table 3: Audiences, Expectations, Objectives and Benefits of Performance Reporting

Audience	Source of Obligation or Expectation	Purpose for Communicating Performance	Outcome or Benefit to Explorers
<b>Board of Directors</b>	Regulatory requirements Fiduciary responsibilities Internal policies Governance obligations	Comply with regulatory and other requirements Due diligence	Manage and reduce risk Improve governance Improve performance
<b>Management</b>	Internal policies and commitments Performance objectives and targets	Manage and improve performance	Improve performance
<b>Employees</b>	Regulatory requirements Performance objectives and targets	Manage and improve performance Raise awareness Generate ownership and buy-in	Stimulate pride and commitment Increase employee loyalty Attract new employees
<b>Regulators</b>	Regulatory requirements	Demonstrate compliance	Legal license to operate Reduce time required for regulatory approvals Access to resources
<b>Shareholders/investors</b>	Regulatory requirements Fiduciary duty	Comply with regulatory requirements Investor Relations	Maintain investor and shareholder confidence Attract new investors and shareholders
<b>Lenders/insurers</b>	Contractual obligations	Comply with contractual obligations	Improve access to capital

**Table 3: Audiences, Expectations, Objectives and Benefits of Performance Reporting**

Audience	Source of Obligation or Expectation	Purpose for Communicating Performance	Outcome or Benefit to Explorers
<b>Local communities, affected stakeholders</b>	Regulatory requirements Community agreements Social and ethical Duty to respect human rights	Manage relations with affected stakeholders Manage reputation risk	Gain trust/mitigate risk of opposition Engage stakeholders Social license to operate Reduce time required for regulatory approvals/permitting Access to resources
<b>General public</b>	Social and ethical	Manage reputation risk	Competitive advantage Social license to operate

**Table 4: Audiences and Information Needs**

Audience	Primary Information Needs	Frequency	Communication Methods
<b>Board of Directors</b>	Status of compliance with laws and regulations and company commitments	Quarterly Immediately for significant incidents or high risk events	Board reports Presentations
<b>Management</b>	Progress with objectives and targets Incidents and issues of risk to the organization Achievements and accomplishments	Monthly, or as needed to manage performance	On-line reports Presentations at regular business meetings
<b>Employees</b>	Remuneration, plans and intentions of the business, job prospects, personnel development opportunities Working conditions Health and Safety Achievements and accomplishments	Monthly	Intranet site Newsletters Presentations at employee meetings

**Table 4: Audiences and Information Needs**

Audience	Primary Information Needs	Frequency	Communication Methods
<b>Regulators</b>	Information mandated by law	As required	Regulatory reports
<b>Local communities, affected stakeholders</b>	<p>Progress and compliance with commitments made to the community</p> <p>Issues related to economic development – jobs, contributions to the tax base, community development contributions, local investment, use of local suppliers and contractors</p> <p>Issues related to the management of local health, safety, security and environmental risks</p> <p>Information on community complaints about corporate activities and how these are dealt with</p> <p>Performance in relation to social and environmental impacts of immediate impact to the community</p>	Monthly or less frequently depending on level of activity in the area	<p>Presentations through open houses and community events</p> <p>Presentations to Liason Committees</p> <p>Community newsletters</p> <p>Internet, depending on the extent of community access</p>
<b>Shareholders/investors</b>	Status of compliance with laws and regulations and company commitments	Annually, or quarterly in case of material disclosures	Annual reports/sustainability reports Internet site
<b>Lenders/insurers</b>	<p>Issues of material risk to the financial performance of the organization</p> <p>Information to compare performance to other companies and standard</p>	<p>Annually</p> <p>As mandated by contractual obligations</p>	

**Table 4: Audiences and Information Needs**

Audience	Primary Information Needs	Frequency	Communication Methods
<b>Civil society organizations</b>	benchmarks Corporate responsibility policy and implementation A wide range of corporate responsibility issues, including labour practice, human rights, anti-corruption, economic development and environmental protection	Annually Opportunistically	Presentations and face-to-face meetings Annual Reports Internet site, social media (e.g., , blogs, Twitter)
<b>General Public</b>	Information to compare performance to other companies and standard benchmarks	Annually Opportunistically	Annual reports Internet site, social media (e.g., blogs. Twitter)

## 1.8 Monitoring and Evaluation

### Introduction

Explorers are increasingly confronted with many questions about their social, environmental and safety performance from both internal and external stakeholders. Some of these questions include:

- Are you meeting your commitments?
- Are you making progress with objectives and targets?
- Are you complying with laws and regulations?
- Are you adhering to the stipulated standards of performance you have adopted?
- Are the processes, controls, plans and risk management strategies that have been implemented working and achieving the required results? Are they effective?
- Are the results in line with the level of effort?
- Are resources being used properly and applied effectively?

In addition to wanting answers to these questions, internal and external stakeholders also want confidence that the information that they are given is an accurate reflection of actual performance and results. To be in a position to answer these questions, explorers need to monitor, measure, evaluate and report performance to their stakeholders. To provide a greater degree of confidence in the integrity of performance measures, explorers need to verify their performance through some form of confirmation. Explorers also may want or need to engage an independent party to provide assurance of their performance statements.

The relationship between performance monitoring and verification to other elements of the management system can best be illustrated by the following travel analogy. In a management system, the policy commitments define the travel destination. The objectives and targets are the route for getting to the destination. Monitoring and measurement are the navigation instruments for directing travel. The odometer, fuel gauge and a compass tell us how far we have travelled, what resources have been used and whether we are headed in the right direction. Verification lets us know whether the navigation instruments are accurate and working correctly.

### 1.8.1 What Is Monitoring, Evaluation and Verification?

Monitoring is the day-to-day management task of collecting and reviewing information that reveals how an operation is performing and what, if anything, needs to change to improve performance. It is a process of routinely gathering information to check on how planned activities or processes are progressing,

### Key Terms

**audit** is a systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which criteria are fulfilled (ISO 19011)

**evaluation** is an assessment process designed to determine the effectiveness and impact of what was or is being done

**monitoring** is the day-to-day management task of collecting and reviewing information that reveals how an operation is performing and what, if anything, needs to change to improve performance

**management review** is a periodic review of performance, conducted by upper management: to assess the effectiveness, suitability and continued adequacy of plans and processes; to define actions to improve performance; and to adapt plans and processes to changing circumstances

**verification** is an independent review process to confirm or authenticate performance by seeking additional proof; auditing is the most common form of verification process

whether they are having the desired performance outcomes and whether specified performance requirements are being followed. Evaluation is an assessment process designed to determine whether the organization is headed in the right direction. Management review is an internal evaluation process (see e3 Plus guidance on Management Review).

Verification is a related and complimentary activity to monitoring and evaluation. Verification is a periodic process to confirm or authenticate performance by seeking additional proof. The primary defining characteristics distinguishing verification from monitoring are independence, objectivity and frequency.

The primary distinguishing characteristics of verification from evaluation are purpose and the difference in evaluation criteria. The purpose of verification is to confirm or authenticate performance; this means that the verification is a comparison process. Verification activities focus on comparing what was or is being done against what was planned or specified. Evaluation focuses on assessing effectiveness and impact of what was done and is therefore typically much more subjective.

The most common form of verification activity is auditing. Other verification processes include: inspections, testing, retracing and calculation of data and results, vouching, etc.) Auditing is a formal, systematic, disciplined and independent examination of a given area, directed at verifying whether it is being conducted according to pre-determined requirements (laws and regulations, internal standards, performance measures, etc.) Independent does not mean that the individuals that conduct the audit must be external to the organization being audited; it only means that they are independent of the process being audited.

Auditing and monitoring can benefit from each other. Auditors can use the results of monitoring efforts to identify risks, reduce audit duration or frequency and focus more audit efforts in other areas. Monitoring is also part of the internal control structure evaluated by auditors. Auditing and evaluation also benefit each other. Evaluators can use the results of audits as a basis for reaching conclusions on the effectiveness and impact of specific activities.

### **Why Monitor and Evaluate Performance?**

For explorers, monitoring and evaluating their social, environmental and safety performance provides information to:

- demonstrate the results of program activities;
- show how these results support policy commitments and performance objectives;
- determine what works and what doesn't, and use the information to adapt processes and plans or to revise objectives;

- spot – and promptly address – problems;
- promote accountability;
- determine whether resources are well utilized and justify resource allocations;
- enhance ability to communicate with stakeholders;
- motivate and provide tangible feedback to employees, contractors and agents;
- ensure that policies, processes and activities are carried out in accordance with agreed upon requirements by the right people and in time;
- comply with government regulations or international standards;
- compare actual performance against industry benchmarks;
- use the lessons learned from one project, process or program to improve others; and
- determine whether the solution or action taken (objectives and targets, action plans, processes and solutions) is the most appropriate and effective way of achieving the desired results.

### 1.8.2 What to Monitor and Evaluate?

Explorers should put into place processes to monitor, measure, evaluate and verify performance of:

- programs, processes, controls and plans established to meet their commitments to the Framework for Responsible Exploration;
- risk management plans and controls established as part of project due diligence;
- objectives and targets;
- operations and activities that have significant social, environmental or safety impact;
- operations and activities of business partners, contractors, agents and service providers that have the potential to impact the explorer's performance in relation to its commitments to the Framework for Responsible Exploration.

For each of these areas, monitoring should be focused on providing information on:

**Compliance:** Whether what is being done (controls, programs, projects, processes, activities, plans) conforms to prescribed requirements, such as applicable laws and regulations, international norms of behaviour, applicable best management practices, and company policies and procedures.

**Efficacy:** Whether what is being done is consistent with company



commitments and achieves the intended results. Does it meet objectives and targets?

**Effectiveness:** How well what is being done achieves intended results. In other words, is it the best method and is it the most efficient use of resources?

**Impact:** Whether what is being done actually makes a difference in terms of addressing impacts that your activities have on society, the environment and your workforce. This should help you determine whether the objectives and targets are appropriate.

### 1.8.3 How to Monitor and Evaluate Performance

A monitoring and evaluation program involves three basic components:

1. Metrics (performance indicators) to measure your performance.
2. Systems and methods to collect and organize data.
3. Processes to analyze and evaluate the information and feed it into decision-making

Guidance on each of these components is discussed in the following sections.

Your monitoring and evaluation program should be tailored to your organization; one size does not fit all. In designing and implementing a monitoring and evaluation program, you need to consider the size of your organization, your organizational and financial structure, the legal and regulatory requirements under which you operate, stakeholder expectations, the maturity of existing monitoring programs, resources available and the impacts that your activities have on society, the environment and your workforce.

Explorers who operate in multiple jurisdictions will need to structure programs differently than those who operate only in one geographic region. Metrics appropriate to one explorer may be of less interest to another. For example, measuring human rights compliance in relation to security arrangements will be very important to an explorer who has operations in conflict zones, but will be less likely to be important for explorers who operate in more stable jurisdictions. The scope of your program, the metrics you choose, the data collection and evaluation processes should be appropriate to your organizational needs. Some basic factors to consider in designing your monitoring and evaluation program include:

#### 1. What Do Internal and External Stakeholders Want to Know?

Every explorer will have a combination of key internal as well as external

audiences. Your monitoring program should be designed to enable you to communicate performance effectively to those audiences. To identify the information you need, you should develop a grid of the key stakeholders to which you report and the type of information they require. See e3 Plus guidance on [Reporting](#) for an example. Once you have identified the information needs of different audiences then you can begin to identify the performance metrics and design the monitoring program to collect and analyze the information.

## **2. Scope – hat Areas of Performance Will Be Included in the Program?**

Will the monitoring program be designed to collect data and measure performance in an integrated approach across all of the functional areas of the Framework for Responsible Exploration (i.e., social, environmental and health and safety)? Or, will you establish separate monitoring programs for each?

For public reporting, most companies report the spectrum of responsibility metrics (social, environmental, and health and safety) in one reporting framework. However, the data collection and internal reporting in many companies is separate. The decision to integrate or run parallel monitoring programs depends on what works best for your organization; there is no right or wrong option. This is a decision that you should consider carefully prior to initiating development of the monitoring program. Changing approaches midstream can be costly and can require revision of metrics and performance indexes. In making the decision, you should consider both what is most efficient in terms of data collection and what is most effective in terms of communicating performance to internal and external stakeholders.

## **3. Senior Management Commitment and Staff Buy-In**

Strong management support is essential for two reasons. First, to ensure that sufficient personnel, financial and information management resources are dedicated to the monitoring and evaluation program. Second, to ensure that monitoring information is taken seriously and acted upon in decision-making.

The monitoring and evaluation program will not succeed without also receiving support and input from those who actually will have to conduct the monitoring or who will be held accountable for the performance monitored. Internal stakeholders should understand why data is collected and how it is used.

### **1.8.4 Establishing Metrics – Performance Indicators**

Performance indicators are what you measure and monitor – they define the data to be collected to measure progress and enable actual results to be achieved over time. They are the measurable or tangible signs that something

has been done or that something has been achieved. Performance indicators are the core of a performance monitoring system because they help answer the questions: Who? How many? How much? How often? How well? A performance metric defines a specific means of measuring and tracking a performance indicator. In general, a variety of metrics can be chosen for any given performance indicator.

Performance indicators can be unique to an organization or program, common to many different types of organizations or common to an industry sector. Examples of commonly shared performance indicators include those developed by the Global Reporting Initiative or those mandated by government regulation.

To develop indicators explorers should:

1. Develop an initial list of possible indicators, by using the following sources:
  - brainstorm indicators with internal personnel with knowledge of the performance objectives your organization is trying to achieve;
  - identify the performance indicators specified by laws and regulations;
  - consult with experts in the substantive program area;
  - consult with other explorers or draw from sources of industry specific indicators; and
  - draw from indicators used in widely accepted programs or initiatives (for example, the Global Reporting Initiative).
2. Next, remove duplicates and overlaps, then assess the remaining indicators against the characteristics of good indicators described below.
3. Finally, narrow the list to the best indicators that meet the need for useful information at a reasonable cost.

The seven characteristics of good performance indicators are:

**Clarity:** Precise, with no ambiguity about what is being measured and agreement in interpretation of the results.

**Relevance:** Provide a direct and adequate measure. In some cases, direct measures are not available at a frequency that is useful to managers and proxy indicators are needed to provide timely insight on progress.

**Practicality:** Capable of being collected and tracked in a timely and cost-effective manner.

**Robustness:** Sufficient to assess performance and get to the root of what you need to know for future improvement, rather than just measure performance.

**Meaningful:** Stakeholders should be able to easily understand the indicators and make an independent appraisal of performance.

**Reliability:** The data available should be of sufficiently reliable quality for confident decision-making.

**Controllable:** Actually measure performance that the organization, group, manager or employee can influence to achieve the desired result. If managers are held accountable for indicators that they cannot significantly influence, resentment or apathy can easily result.

The following are some guidelines for establishing good performance indicators/metrics.

### **1. Make Use of Both Quantitative and Qualitative Measures**

The metrics used in monitoring and evaluation can be quantitative or qualitative. Quantitative measurement gives us information about “how much or how many” and is capable of being expressed as:

**Absolute metrics:** These are expressed in relation to a fixed measurement scale, for example the total number of local people employed in exploration activities.

**Relative metrics:** These are expressed in relation to another metric or variable, for example, the total number of local people employed in exploration activities relative to the total employment dollars spent. Another approach is to use time-based relative metrics, which describe change in a particular quantitative metric over a given time period. For example, the percent increase in employment dollars going to local people from 2008 to 2009.

**Normalized metrics:** These are expressed in relation to per unit of production or activity, for example total revenue.

Qualitative measurement gives us information about how things are done or how people feel or behave. External stakeholders typically find quantitative information more comforting than qualitative information, because it appears solid and more objective. However, qualitative information gives us insight into the reasons why something may not be effective or working as planned. In some cases, what we are trying to measure is more suitable to qualitative information (e.g., community satisfaction or opinion). A well-rounded monitoring program will have both quantitative and qualitative metrics.

## **2. Use Indicators that Drive Performance**

Performance indicators should drive performance, not be a running tally of performance results. This involves using leading as well as lagging indicators of performance.

**Leading indicators** are metrics that refer to future developments and drivers/causes. Leading indicators provide information about practices that are expected to lead to improved performance. They point to where assets, teams, processes or other resources are going and allow the organization to take action to steer performance. The main weakness of leading indicators is that they are typically not easy to quantify and often require more effort in data collection.

**Lagging indicators** are metrics that mainly refer to past developments and effects/results. Lagging indicators provide information about what has been done and allow the organization to take reactive action. Lagging indicators are the types of data typically required by regulatory agencies to determine compliance with laws and regulations (e.g., number of spills, lost time incidents). Lagging indicators are usually quantifiable and easy to understand and the information is normally already collected for other business purposes. The main disadvantage of lagging indicators is that they occur after the fact and thereby rely on corrective action to improve performance. The importance of a lagging indicator is its ability to confirm that a pattern is occurring or about to occur.

## **3. Establish Performance Measures that Enable Comparability**

Performance measures should provide a context within which to assess performance. We all understand the importance of being able to compare our financial performance from one year to the next, or to compare between what was forecasted and what was achieved or against the financial performance of a competitor. Comparison of financial statements forms the basis for much financial analysis and requires consistency in metrics. The same applies to social, environmental and health and safety performance. To achieve this, explorers should establish key performance measures that:

- remain consistent from year to year;
- draw on a number of broadly recognized performance measures, for example those derived from the Global Reporting Initiative; and
- provide direct comparison between performance commitments.

This does not mean that explorers should not put in place short term or single purpose metrics to gauge performance of a specific project or process. However, the overall design of performance measures should enable comparability.

#### **4. Less Is More – Avoid Using Too Many Metrics.**

Avoid the use of too many performance measures. Choose a few measures focused on essential information needs that drive performance. Having too many performance measures uses up valuable resources, burdens staff and management with unnecessary data collection and analysis and can overwhelm and confuse the very audiences they were designed to satisfy.

If a company has diverse operations or operates in many different parts of the world with different operating and regulatory environments, it should consider developing metrics that are flexible and adaptable to the specific situations.

#### **5. Get Stakeholder Feedback**

Solicit input from the key stakeholders on how well performance metrics meet their needs. Stakeholder feedback can be solicited in many ways and can be integrated with other types of engagement activities. Some methods of soliciting input include workshops, focus groups, websites, questionnaires, surveys, and comment cards.

##### **Data Collection and Analysis**

Establish robust and reliable data gathering and information management systems to enable you to manage the data effectively.

This does not mean that explorers need to invest in expensive software solutions to establish effective data gathering and management systems. Data collection and tracking can be as simple as recording information in a spreadsheet. It does mean that explorers have to carefully think through:

- What information they need to manage?
- What is the most efficient way to collect it?
- Who will collect what kind of data?
- How will they be trained to collect data?
- How will accuracy of the data be verified?
- How the information will be used?
- Who will use it and in what form do they need it?
- What type of information management system will be used to manage the data?
- What type of computer software will be used to report data (if it is entered electronically)?

The costs of monitoring and measuring performance can be minimized by using information that is already being collected for other business purposes. Where data is not already being collected, the data collection processes should be integrated into existing business processes. It is important not to create a separate measurement bureaucracy. Establish formats and procedures for

data collection and data entry that make it practical and part of a routine activity. Determine a process for tracking and reporting all relevant data. Report on trends that emerge from your findings on a regular basis.

Analysis of monitoring information should be integrated into regularly scheduled business processes or it is likely to fall through the cracks. Social, environmental and health and safety performance should be analyzed and discussed in the same way that the organization deals with financial and operational performance. Analysis and evaluation should be built into regular business meetings.

Monitoring and evaluation have little value if the organization or project does not act on the information that comes out of the analysis of the data collected. Once you have the findings, conclusions and recommendations from your monitoring and evaluation process, you need to:

- make concrete decisions about how to move forward; and
- establish action plans with defined timelines for putting the actions into place.

### **Evaluation**

Analysis of monitoring information that feeds into decision-making is designed to help steer the organization toward its intended direction. Evaluation is an assessment process designed to determine whether the organization is headed in the right direction. Management review is the principal means by which explorers can evaluate their programs, processes and policies to evaluate whether they are headed in the right direction in terms of their social, environmental and health and safety performance.

In addition to management review, explorers also may wish, depending on the program or project, to undertake other forms of evaluation. For example, explorers may wish to hire subject matter experts to evaluate a specific program or performance area or to use focus groups or stakeholder panels to conduct evaluations of critical areas of performance.

Regardless of whether the evaluation is internal or external, it relies upon the monitoring information and should answer the following questions:

**Purpose:** Why did we do what we did? What was our intended goal and why did we choose the direction or action to achieve it?

**Results:** Did we achieve or make progress toward our intended goal? Did it make a tangible difference in our performance? Did it make a difference in the area we are trying to affect (e.g., community

development)? Do we have the right objectives and targets?

**Effectiveness:** Was our approach effective? Did it make the best use of people and resources? Was it received well by internal and external stakeholders?

**Alternatives:** Are there better ways of achieving the desired result?



## 2.0 Due Diligence – Introduction

Successful exploration creates new wealth, returns value to investors, minimizes negative impacts to people and the environment and makes a positive contribution to local communities and society at large. The first key step to achieving these goals is project due diligence. Before initiating any new exploration project and before progressing to the next stage of exploration on an existing project, explorers should conduct project due diligence. Project due diligence is a risk management process designed to enable you to decide if you should proceed with a project and, if so, how to do so in a way that enables you to manage the social, economic and environmental risks. Effective project due diligence will save you time, money and many problems – possibly even save the project itself. It will enable you to identify, manage and control your risks to prevent harm, make better financial and operational decisions and meet your commitments to your stakeholders.

Due diligence helps to gain more realistic timeframes for project activities and processes, which can in turn be transmitted through communications strategies to stakeholders. This translates into better management of stakeholder expectations. Better management of stakeholder expectations contributes to reducing some of the constraints faced by exploration companies (i.e., social pressures).

The rigour of assessment that needs to be undertaken at the screening and planning levels will depend on the scope, scale and potential for social, environmental and economic impacts. The more complex the activity and the greater the anticipated impacts and risks, the greater the level of effort that should be invested in collecting information to support the assessment and the greater the rigour in conducting the assessment.

Project due diligence should not be an exercise of ticking off the boxes and it is not a process of completely avoiding risk. It should be viewed as a process to achieve positive outcomes, not a process to identify the negatives that prevent opportunities from being pursued. Far from obstructing opportunities, project due diligence, if used effectively, can help explorers pursue higher risk opportunities, because the exposure to risk is better understood and managed. Project due diligence will be effective only to the extent to which it is embraced throughout the organization and integrated into existing management and planning processes. Exploration managers need to provide support, resources and direction downwards to help manage the risk effectively.

### 2.1 Project Due Diligence and Risk Management

Due diligence can be thought of as the effort one would expect a reasonably prudent person to exercise in similar circumstances to prevent harm. The key to the concept of due diligence is the foreseeability of the risk. If the risk can reasonably be foreseen, then steps must be taken to address it. Essentially, due diligence is a risk management process; therefore, the terms risk management and project due diligence are used interchangeably in this guidance. Risk management can be described as all the activities performed to

#### Key Terms

**due diligence** is the effort made by an ordinarily prudent or reasonable person to prevent harm to another person or the environment

**hazard** is a situation which could lead to harm

**consequence** is the outcome of the hazard occurring (risk event); there can be more than one consequence from one event

**probability** is the extent to which the hazard is likely to occur

**risk** is a combination of the severity and likelihood of harm arising from a hazard [ Risk = Probability X Consequence]

**risk assessment** is the process of identifying, estimating and evaluating risk

**risk management** is the process of identifying and analyzing risk and deciding on appropriate course of action to avoid or minimize the risks

**risk control** is the process of identifying, implementing and monitoring measures to reduce the risk associated with a hazard

**e3 Plus: A Framework for Responsible Exploration** is the expanded framework that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

identify, assess and control the uncertainties which may impact on an exploration project's ability to achieve its aims, objectives and opportunities.

As previously stated, project due diligence is a risk based decision and planning exercise, designed to enable you to decide if you should proceed with a project and, if so, how to do so in a way that enables you to manage the social, economic and environmental risks. Project due diligence is not mandated by legislation; it is a voluntary management tool that is part of a prudent risk management strategy.

Project due diligence involves two interrelated risk management objectives: (1) to avoid or minimize risk to the project; and (2) to prevent harm to people and the environment.

### **2.2 What Is the Relationship between Due Diligence and Impact Assessment?**

Project due diligence and social and environmental impact assessment are related exercises and share the same ultimate goal – preventing harm to people and the environment. Impact assessment also involves elements of both risk assessment and risk management. However, while social and environmental impact assessments can be undertaken voluntarily, in most countries they are typically mandated by legislation, as part of regulatory approval for large development projects. Impact assessment is a means to ensure that regulatory decision-makers have sufficient information on the social and environmental impacts of a project to decide if it should be allowed to proceed.

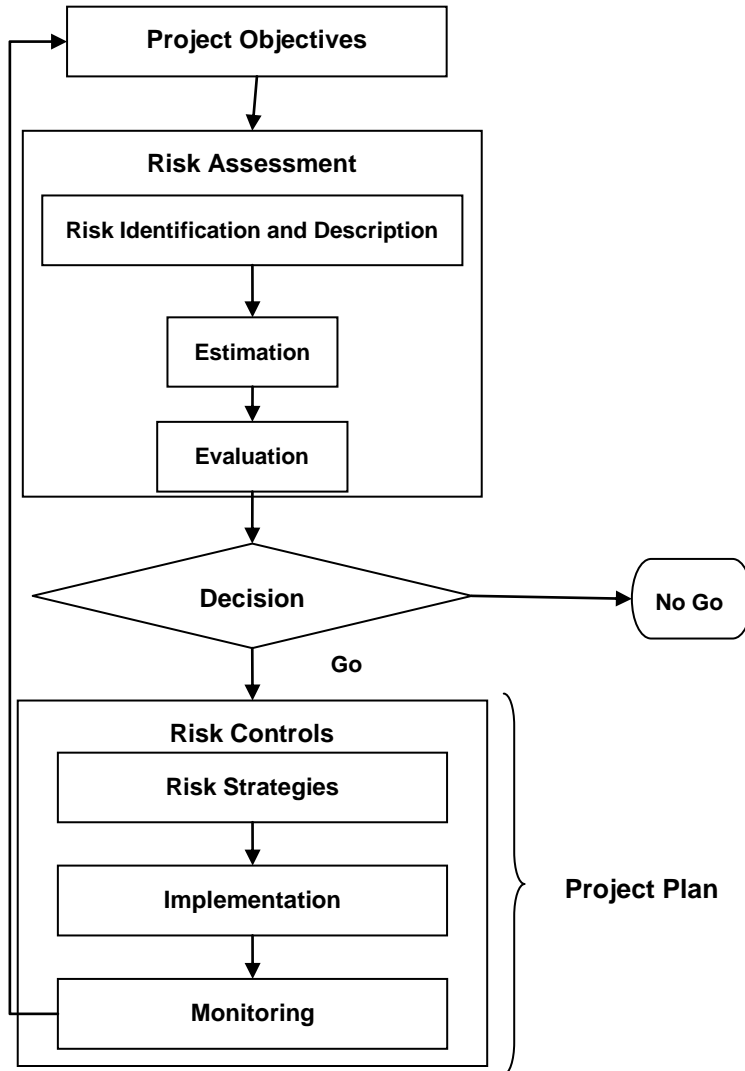
Impact assessment is the assessment of the possible social and/or environmental impacts – positive or negative – of a proposed project or action. The main difference between impact assessment and project due diligence is that impact assessment typically involves more detailed studies of the natural and/or social environment, to provide the context for assessing the impact of a proposed activity. Impact assessment uses data on baseline conditions and compares it to the anticipated impacts and the strategies proposed to minimize impacts, to determine whether the impacts of a project as proposed are acceptable.

Impact assessment is not typically necessary at early stages of exploration. In the latter stages of exploration, however, as the prospect of a mine begins to crystallize and/or as the scope and scale of exploration activities expand, explorers may be required by law to conduct impact assessments, or it may be prudent to voluntarily undertake more detailed impact assessment studies, to support project due diligence.

### **2.3 What Is Risk Management?**

Risk management involves two main components: (1) risk assessment, which is the identification and evaluation of the risk of a given decision or activity; and (2) risk control, which involves the identification of controls (strategies and

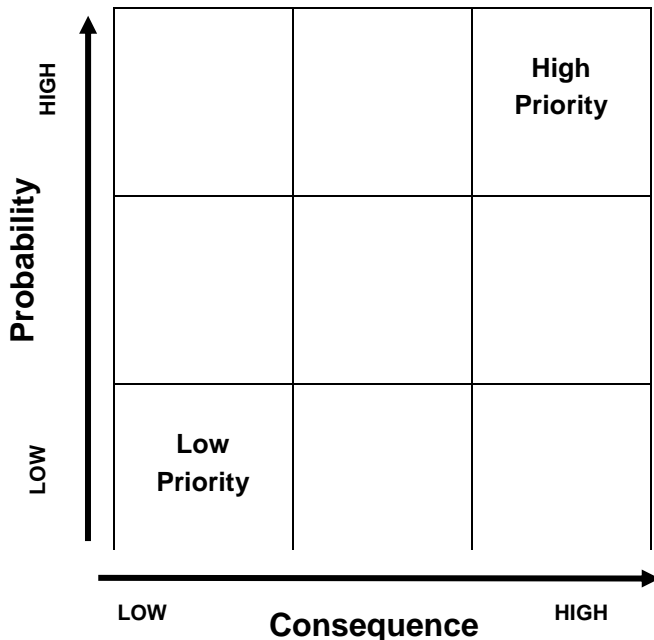
processes) to reduce the risk and the implementation, monitoring and review of those strategies. Each of the two components involves a series of activities that vary in number, depending on the risk management methodology. For the purposes of project due diligence, a streamlined, straightforward risk management process works best. Figure 1 below illustrates the main steps that should be incorporated into the project due diligence process.



**Figure 2:** Project Due Diligence – Risk Management

**2.4 The Basics of Risk and Risk Assessment**

Risk is usually defined as the product of the likelihood (or probability) of the occurrence of a hazard and the magnitude of its consequence. As the level of risk increases (likelihood and the consequences), so too does the priority to respond (see Figure 2 below). However, in cases where the consequences to people or the environment are very high, you have an obligation to take action to prevent harm, even if the probability is very low. The type of action taken to respond will depend on a number of factors, including the extent of control one has over the activity giving rise to risk, available alternatives, costs, etc.



**Figure 3:** Risk Calculation

The scope and rigour of the methods used to assess risk and the quantity and type of information required to adequately characterize and evaluate the risk, must be appropriate for the decision being made. Therefore, a risk assessment that is used to support a decision where there is the potential of catastrophic consequences (e.g., the design of a large dam) will require more rigour and study, than a risk assessment that is used to support a financial decision involving a small investment.

Historically, risk assessment and risk management have focused on safety, natural hazards, business interruption and financial risks and, more recently, on environmental and social risks. In these areas, organizations have

developed systematic processes and tools to identify and evaluate risks, so that risk assessment could be conducted in an efficient manner. While specialized tools and processes have been developed for different types of risk assessment and while the rigour of risk assessment methodologies vary, the foundational elements of risk identification and assessment remain the same (see Figure 3 below). Risk assessment consists of three basic steps: (1) identification; (2) estimation; and (3) evaluation.

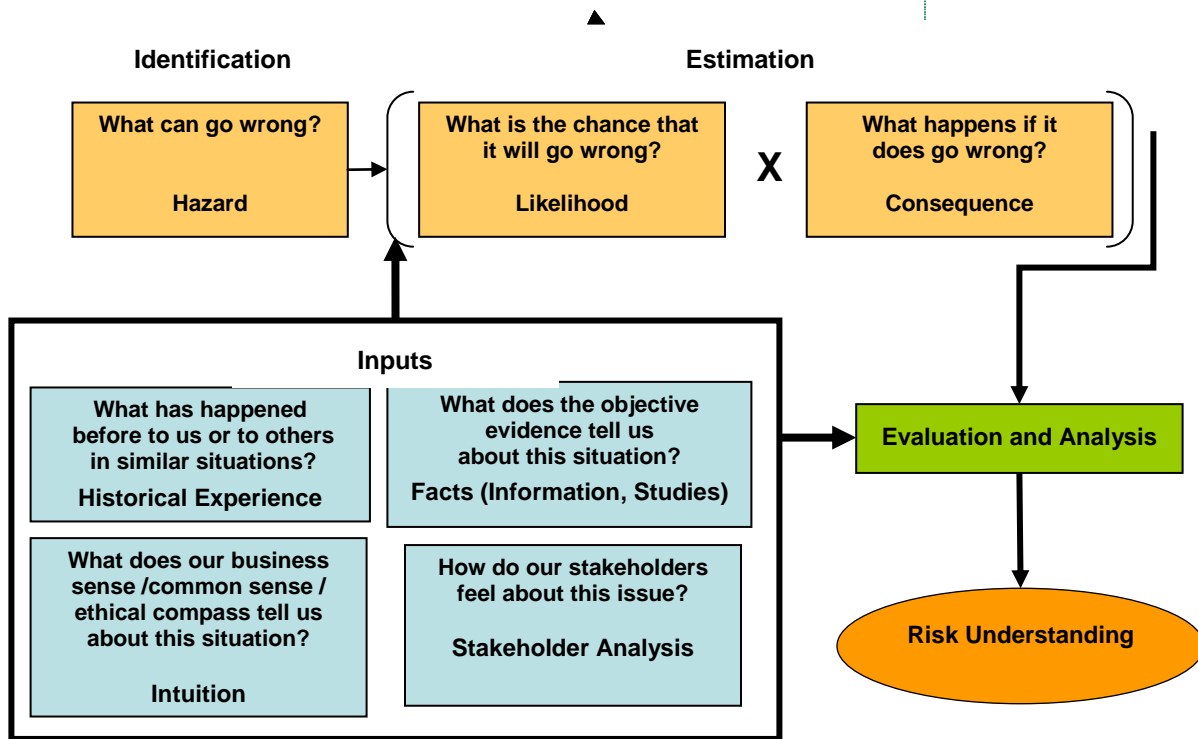


Figure 4: Foundational Elements of Risk Assessment

## 2.5 Risk Identification

Risk identification answers the questions: What can go wrong? How can it go wrong? For a project, any condition, situation or event that can occur and would jeopardize the project objectives constitutes a risk. Checklists are probably the most commonly used risk identification tools. Other risk identification methods include: meetings and brainstorming' discussion with stakeholders; background research; and reviews of activities. Risk identification is a crucial phase; if a risk is not identified, it cannot be evaluated and managed. The purpose of risk identification is to:

- identify all significant types and sources of risk and uncertainty associated with the project;
- ascertain the causes of each risk; and
- assess how risks are related to other risks and how risks should be classified and grouped for evaluation.

For the purposes of project due diligence, we suggest the following simple risk identification strategy:

- 1) Create a list of the various operational and support activities involved in the project and identify the social, environmental and economic impacts of these activities. You can use the Exploration Activity Tables and Risk Issue Tables in Appendix A of this section to help you get started in identifying the activities and their potential impacts.
- 2) Determine which stakeholders may be impacted and how they may be impacted. Consult the guidance on stakeholder analysis and the broader guidance on stakeholder engagement, to identify how best to collect information on stakeholders and which stakeholders may be impacted.
- 3) Conduct an environmental scan, to determine what existing factors (social, political, economic, cultural, and environmental) could present risks to the project and amplify or reduce the risk of project activities on society or the environment. Environmental scanning is a search for, and analysis of, information about relevant external forces, to see how these may affect your project. These include economic, environmental and political/legislative, as well as social and cultural competitive dynamics. This is sometimes also called a PESTLE (Political, Economic, Social, Technological, Legal, and Environmental) analysis.

To collect information for the risk identification, explorers should:

- **Search the Internet:** The Internet is a useful way to conduct simple "desktop" risk identification. Many on-line resources exist that can provide information for the environmental scan and help you conduct a coarse filter analysis of issues of concern related to mining and development in the area in which you propose to operate. Some of the on-line sources of information related to issues such as human rights, corruption, etc. are identified in the Social Responsibility Toolkit covering those sections. Tools as simple as Google Earth can provide information to help identify cultural heritage sites or threatened species. In many cases, on-line

resources can also be used to identify the applicable laws and regulations that explorers will need to adhere to. Websites that may provide useful information for risk identification are included at the end of this section.

- **Look to internal sources:** Employees within the organization may have direct experience in the area where the project will be undertaken. They can help identify and explain the issues that may influence social, environmental and economic risk.
- **Use external contacts:** Talking with people and agencies in the local area will give you the best local perspective. Some sources that can provide valuable information include: chambers of commerce, industry associations, the local embassy, country trade representatives, contractors and agents, regulatory agencies and local developmental NGOs. Explorers should try and collect information from a number of sources, to ensure that they are getting a broad and balanced perspective.
- **Talk to potentially affected stakeholders:** There is no substitute for understanding firsthand the concerns of affected stakeholders and for ongoing dialogue that leads to respectful relations.

The extent of research that explorers will need to undertake for the risk identification depends on: the stage of exploration; the scope and scale of the exploration activity; and the social, political and legal context in which the activity is being undertaken. In the later stages of exploration, greater reliance should be placed on information from employees with experience on the project, local contacts and stakeholders. Also, in the later stages of exploration, social and environmental impact studies may either be required by law, or it may be prudent to initiate such studies voluntarily, to support project due diligence.

## 2.6 Risk Estimation

Risk estimation is the process of trying to determine the significance of the risk. Estimation serves three main purposes: (1) it helps the organization determine whether the risks are so significant, or cannot be managed, that the project should not be undertaken; (2) where the project risks can be accepted and managed, it helps set priorities for addressing them; and (3) in cases where there is no specific legislation, or other appropriate guidance to serve as a benchmark for managing the activities giving rise to the risk, risk estimation can also be helpful in deciding whether or not precautions are adequate.

Estimation can include both qualitative and quantitative assessments of the likelihood and consequence of the risk. The balance between qualitative and quantitative analysis will vary from project to project and will have to be determined by the availability of data and the need to remain cost-effective.

For most exploration activities, particularly in the early stages of exploration, it will not be cost-effective to conduct quantitative analysis and it will add little or no value to the effective management of the project. It is much more sensible and productive to restrict effort to a simple qualitative approach. In later stages of exploration, however, where the scope of activities that gives rise to risk and the potential consequences are likely to be more serious, it may make sense to adopt a quantitative analysis.

Tables 1 and 2 below illustrate a simple qualitative analysis that explorers can use to estimate risk and determine the action that should be taken. This analysis is based on assessing probability and consequence simply on the basis of high, medium or low and can be presented as a 3 x 3 matrix. Tables 3 and 4 below provide further guidance on factors for calculating the probability and consequences of a risk.

**Likelihood or Probability**

When determining likelihood or probability the following should be considered:

- **The frequency and duration of exposure:** How often does the activity occur (hourly, daily, weekly, etc.)? The greater the exposure, the greater the chance that something might go wrong.
- **The availability of risk controls and extent to which they are followed.**
- **Foreseeable abnormal situations:** Possibilities include emergency conditions, failure of equipment and abnormal weather events.
- **Past experience:** The absence of previous incidents or occurrences does not indicate that there is no risk, but it may indicate that incidents or occurrences are unlikely or highly unlikely. This is particularly true if the activity has been carried out frequently in the past in similar circumstances. Consideration should be given to the possibility that incidents may have happened but are not known.
- **Foreseeable human intervention:** Possibilities include unintended errors and deliberate violations.

**Consequence of Harm**

When determining the consequence of harm, the following should be considered:

- **Scale:** The number of units (people, groups, animals, species) that may be impacted, and the geographical extent of the impact.
- **Severity:** How serious the harm is, ranging from negligible to catastrophic or fatal.
- **Duration:** How long the impact will continue (permanent or temporary).
- **Mitigation:** The extent to which the impact can be mitigated. Note: Controls are preventive if they are directed at preventing the harm from happening; mitigation is corrective, directed at correcting harm.



**Table 5: Risk Estimation Matrix**

Probability/ Likelihood	Consequence (Severity, Duration, Scope)		
	Low (Slightly Harmful)	Medium (Harmful)	High (Extremely Harmful)
High (Probable)	Moderate Risk	Substantial Risk	High Risk
Medium (Possible)	Low Risk	Moderate Risk	Substantial Risk
Low (Remote)	Trivial Risk	Low Risk	Moderate Risk

**Table 6: Risk Action Matrix**

<b>Trivial</b>	<ul style="list-style-type: none"> <li>No action is required and no documents need to be kept</li> </ul>
<b>Low</b>	<ul style="list-style-type: none"> <li>No additional risk controls are required unless:                             <ul style="list-style-type: none"> <li>there is a legal requirement;</li> <li>there is a more cost-effective solution; or</li> <li>a further reduction in risk is possible at no additional cost.</li> </ul> </li> <li>Monitoring is required to ensure risks remain low and controls are functioning</li> <li>Document actions taken</li> </ul>
<b>Moderate</b>	<ul style="list-style-type: none"> <li>Establish controls to reduce the risk; costs of controls should be carefully assessed and the most cost-effective solution identified</li> <li>Where the moderate risk is associated with extremely harmful consequences to people or the environment, you have an obligation to take action to prevent harm, even if the cost of controls are high</li> <li>Risk reduction methods should be implemented within a defined time period</li> <li>Monitoring is required to ensure risk controls are effective</li> <li>Document actions taken</li> </ul>
<b>Substantial</b>	<ul style="list-style-type: none"> <li>Project should not be started until the risk has been reduced</li> <li>Considerable resources may have to be allocated to reduce the risk; this may affect the viability of the project</li> <li>Where the decision involves continuation of a project, action <b>may</b> need to be taken to mitigate the impacts and risks associated with previous activity, even if the decision is not to continue with the project</li> <li>Monitoring is required to ensure risk controls are effective</li> <li>Document actions taken</li> </ul>

<b>High</b>	<ul style="list-style-type: none"> <li>• Project should not be started or continued until the risk has been reduced</li> <li>• If it is not possible to reduce the risk, the project should not be undertaken</li> <li>• Monitoring is required to ensure risk controls are effective</li> <li>• Document actions taken</li> </ul>
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**Table 7: Risk Probability Analysis**

	<b>Probability Factors</b>
<b>High (Probable)</b>	<ul style="list-style-type: none"> <li>• Greater than 25 per cent chance of occurrence                             <ul style="list-style-type: none"> <li>• Previous direct history of occurrence by the organization/in the industry</li> <li>• Potential to occur more than once or at regular intervals</li> </ul> </li> </ul>
<b>Medium (Possible)</b>	<ul style="list-style-type: none"> <li>• Less than 25 per cent chance that it will occur                             <ul style="list-style-type: none"> <li>• No previous direct history of occurrence, but has been known to happen elsewhere (similar types of circumstances)</li> <li>• Likely to be a single event or occurrence</li> </ul> </li> </ul>
<b>Low (Remote)</b>	<ul style="list-style-type: none"> <li>• Less than 2 per cent chance that it will occur                             <ul style="list-style-type: none"> <li>• Unlikely but not improbable</li> <li>• No previous direct history of occurrence and no known examples of occurrence</li> </ul> </li> </ul>

## 2.7 Risk Evaluation

Risk evaluation involves examining the acceptability (undesirability) of the various risks, with consideration to the various factors and tradeoffs influencing risk acceptability including: the needs, issues and concerns of stakeholders; the costs of risk controls; and the upside benefits of the project. This is the process by which the organization makes its decision to proceed or not proceed with the project.

## 2.8 Risk Control

Risk control strategies are required for risks that have been identified during the risk estimation and risk evaluation process as unacceptable (moderate to high). The exact control strategy will depend on the risk being considered, the context in which the risk occurs and the resources available to the organization. However, preferred methods of risk control generally fall within the classes presented below. There is a hierarchy of controls in terms of their effectiveness. The most effective controls are those that eliminate the situation, substance, condition, or activity that gives rise to the risk in the first instance. Where elimination strategies are not possible, methods that focus on reducing the probability of occurrence are preferred. Finally, at the bottom of the hierarchy are strategies that mitigate or reduce the consequences of the harm.

Unless you are able to eliminate the hazard giving rise to the risk altogether, you will normally use multiple control strategies to address a specific hazard situation. Ranked in the order that they should be considered and adopted, the preferred methods of risk control are:

- **Elimination:** As a first step, you should always look at how you can change or eliminate the process, activity, or product to eliminate the hazard. If the hazard is removed, all the other management controls (e.g., assessment, record keeping, training, auditing) are no longer needed, with subsequent time cost savings.
- **Substitution:** If the hazard cannot be removed, replace the hazard with something of a lesser risk. This may involve replacing a material (one chemical for another), process (alternative survey method), or even business relationship associated with the activity. As examples: Substitute vegetable based lubricants for carbon based lubricants; replace a project's security contractor with one who has a more solid reputation.
- **Redesigning:** Redesigning how an activity or process will be carried out can be used to reduce or eliminate risk. This is perhaps the most effective method available to explorers when dealing with social risks. As examples: Design a plan to deal with corruption issues related to obtaining land tenure and exploration approvals; establish a plan for obtaining consent from local peoples for access to land (free and prior informed consent)
- **Engineering:** Controls may be available to address hazards that have

safety and environmental consequences. As an example: Creating a berm around a potential source of spillage greatly reduces the risk of soil contamination.

- **Administration:** Administrative controls are “policy” or behavioural control types you can put in place. These are often the most cost-effective and in many cases are necessary to support other risk control strategies. The e3 Plus guidance provides recommendations on many of the administrative controls that explorers should implement that will help address project risk. As examples: Training project managers on issues related to human rights; requiring contractors to comply with the organization’s Code of Conduct; implementing project oversight reviews; putting environmental and safe work practices into place.
- **Personal protective equipment (PPE):** Personal protective equipment means clothing, equipment and/or substances which, when worn correctly, protect part or all of the body from risks of injury or disease at work or in the workplace. PPE is a means of controlling safety risks.

## 2.9 Project Plan

Identifying the risk controls is only the first step. Explorers should then develop a plan to guide the implementation and management of the project. The project plan provides the basis for integrating risk control strategies into existing management and operating practices. The project plan should include as appropriate:

- results of the stakeholder analysis and plans and strategies for stakeholder engagement, including strategies for engaging with NGOs;
- comprehensive schedule of activities;
- definition of risks identified and proposed controls for how they will be addressed;
- contingency plans to manage alternative risk scenarios;
- performance objectives for the project – these should obviously cover financial, strategic and operational objectives, but also need to include objectives related to social, environmental and safety performance;
- strategies for dealing with government agencies;
- strategies for engaging with other stakeholders;
- how project risks will be monitored;
- legal requirements, international standards, company policies, or best management practices (as applicable) that govern the activities being conducted;
- how compliance to legal requirements and conformance to company policies and standard will be monitored;
- security arrangements for personnel and contractors and strategies for dealing with conflict and the presence of illegal activities (e.g., drugs, smuggling);
- emergency response procedures;
- strategies for dealing with cultural difference and intercultural issues;
- communication plans; and
- reporting requirements, internal and external.

## 2.10 Monitoring and Review

Throughout the project, checkpoints should be established to review effectiveness of risk control strategies and conformance to the project plan.

### Related e3 Plus Guidance

[Stakeholder engagement](#)

See Additional *e3 Plus* Guidance on **Monitoring and Management Review**

This does not require the establishment of separate special processes, but can simply be rolled into the normal project review and progress checks that most operations conduct. In fact, integrating this into existing project management processes is preferred, since it institutionalizes the management of social, environmental and safety risk.

What is important is that social, environmental and safety issues be given equal importance to financial and operational issues, receive meaningful discussion and review and are not simply checked off. This means that performance measures need to be clearly articulated in the project plan to enable performance to be evaluated. The results of monitoring activities should be used to revise risk control strategies where there is indication that they are not effective. Reviews should be documented. Information from these reviews will also be helpful in devising risk control strategies for future projects.

Table 8: Risk Consequence Analysis

	Financial	Legal	Safety	Environmental	Social	Stakeholder/ Reputation
High	Impact to the company > (X value)	<ul style="list-style-type: none"> <li>• Court proceedings</li> <li>• Criminal liability</li> <li>• Significant fines, penalties, damages</li> </ul>	<ul style="list-style-type: none"> <li>• Fatality</li> <li>• Serious injury</li> <li>• Permanent disability</li> <li>• Permanent health impacts</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Long-term or permanent impact</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Large geographical extent/footprint</li> <li>• Impact beyond project site boundaries</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Lethal acute effect on plants or animals</li> <li>• Elimination or significant alteration of a resource, habitat, or unique and sensitive features</li> <li>• Loss or severe limitation on multiple use</li> <li>• Impacts cannot be mitigated</li> <li>• Significant cumulative environmental effects</li> <li>• Significant impacts on threatened and endangered species</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Long-term or permanent impact</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Large geographical area</li> <li>• Large number of Individuals</li> <li>• Multiple communities</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Gross violation of human rights</li> <li>• Impacts cannot be mitigated</li> <li>• Cascading or cumulative impacts</li> <li>• Significant impact on vulnerable group</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Long-term or permanent impact</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Concerns shared by large number of different stakeholders</li> <li>• National or international coverage</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Threatens social licence to operate in the project area</li> <li>• Protests by stakeholders (NGOs)</li> <li>• Differences will require lengthy negotiation and may not be resolvable</li> </ul>

Table 8: Risk Consequence Analysis

	Financial	Legal	Safety	Environmental	Social	Stakeholder/ Reputation
<b>Med</b>	Impact to the company > (X value)	<ul style="list-style-type: none"> <li>• Legal actions outside of court proceedings</li> <li>• Moderate fines, penalties, damages</li> </ul>	<ul style="list-style-type: none"> <li>• Minor injury, or series of small injuries</li> <li>• Temporary disability</li> <li>• Short-term health impacts</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Intermediate duration</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Impact contained within project site boundaries</li> <li>• Moderate geographical extent/footprint</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Moderate impact on resource, habitat, multiple use, unique and sensitive features</li> <li>• No impact on threatened and endangered species</li> <li>• No cumulative environmental effects</li> <li>• No detectable effect on ecological function</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Intermediate duration (months to few years)</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Local community</li> <li>• Single group or small number of individuals</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• No gross violations of human rights</li> <li>• Impacts can be mitigated</li> <li>• Isolated impacts, not cascading or cumulative</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Intermediate duration</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Stakeholder concern by single group or individuals</li> <li>• Local media coverage</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Stakeholder concerns are resolvable</li> <li>• Stakeholder concerns are moderate and do not threaten social licence to operate</li> </ul>



Table 8: Risk Consequence Analysis

	Financial	Legal	Safety	Environmental	Social	Stakeholder/ Reputation
<b>Low</b>	Impact to the company > (X value)	<ul style="list-style-type: none"> <li>• Small fines and damages</li> <li>• No legal actions</li> <li>• Warning or administrative sanctions</li> </ul>	<ul style="list-style-type: none"> <li>• Minor first aid for irritation</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Temporary effect</li> <li>• Days to months</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Small isolated area</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Minor alteration to resource, habitat, multiple use, species</li> <li>• No impact on threatened and endangered species</li> <li>• No cumulative environmental effects</li> <li>• No detectable effect on ecological function</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Temporary effect</li> <li>• Days to months</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Small isolated area</li> <li>• Few individuals</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Impacts can be easily mitigated</li> <li>• Impacts minor</li> </ul>	<p><b>Duration</b></p> <ul style="list-style-type: none"> <li>• Temporary effect</li> <li>• Days to months</li> </ul> <p><b>Scale</b></p> <ul style="list-style-type: none"> <li>• Stakeholder concern by few individuals</li> <li>• No media coverage</li> </ul> <p><b>Severity</b></p> <ul style="list-style-type: none"> <li>• Stakeholder concerns are resolvable</li> <li>• Stakeholder concerns are minor and do no threaten social licence to operate</li> </ul>

**Appendix A: Identifying Activities and Issues that Can Result in a Risk**

**Appendix A-1: Environmental and Social Factors that Can Influence Project Risk**

The following tables contain a representative list of factors that can impact the environmental, social and economic risks of an exploration project. This is not intended as a checklist for project due diligence, but rather is designed to provide explorers with a scanning list to help them think about risks associated with their specific activity. Depending on the scale of the activity and the location in which it occurs, many of these factors will not apply. For example, many of the risk factors associated with government will not be of relevance for projects in OECD countries. In identifying the consequences of social and environmental risk, explorers should keep in mind that consequences of a situation often result in cascading impacts. For example, soil contamination can lead to loss of soil productivity that can result in impact to wildlife or loss of habitat integrity. Explorers also need to consider cumulative consequences, or whether multiple consequences taken together have the effect of compounding or increasing the severity of the impacts.

**Table A-1: Sources of Environmental Risk and Potential Consequences**

	<b>Air Emissions</b>	<b>Water Discharges</b>	<b>Waste Generation</b>	<b>Unintended Releases</b>	<b>Land Use</b>	<b>Other</b>	<b>Resource Consumption / Extraction)</b>
<b>Sources</b>	<ul style="list-style-type: none"> <li>Process emissions</li> <li>Fugitive emissions</li> <li>Transportation</li> <li>Examples of types of emissions                             <ul style="list-style-type: none"> <li>CO<sub>2</sub>, NO<sub>x</sub> and SO<sub>x</sub> emissions</li> <li>Halons and CFCs</li> <li>Dust and particulate</li> <li>Other emissions</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Process Water</li> <li>Sanitary Sewage</li> <li>Storm water</li> <li>Water diversion</li> <li>Drill fluids</li> </ul>	<ul style="list-style-type: none"> <li>Hazardous waste</li> <li>Mixed industrial waste</li> <li>Mineral waste</li> <li>Domestic waste</li> <li>Spoil from trenches</li> </ul>	<ul style="list-style-type: none"> <li>Fuel</li> <li>Chemicals and toxic substances</li> <li>Sanitary sewage</li> <li>Process water</li> <li>Acid rock drainage</li> </ul>	<ul style="list-style-type: none"> <li>Surface disturbance (clearing, blasting)</li> <li>Land conversion</li> </ul>	<ul style="list-style-type: none"> <li>Noise</li> <li>Odour</li> <li>Radiation</li> <li>Vibration</li> </ul>	<ul style="list-style-type: none"> <li>Water</li> <li>Electricity</li> <li>Fuel</li> <li>Minerals</li> <li>Flora (trees, etc.)</li> </ul>
<b>Environmental Consequences</b>	<ul style="list-style-type: none"> <li>Pollution of air quality</li> <li>Climate change</li> <li>Pollution of surface and groundwater quality</li> <li>Loss/impairment of aquatic habitat</li> <li>Loss of aquatic species</li> <li>Soil contamination</li> <li>Impact on soil productivity</li> <li>Impact on wildlife</li> <li>Loss of habitat integrity</li> <li>Threat to endangered species/species at risk</li> <li>Loss of biodiversity</li> </ul>						

**Table A-2: Social Factors that Can Influence Project Risk**

<b>Workplace</b>	
<p><b>Workforce Issues</b></p> <ul style="list-style-type: none"> <li>• Diversity (e.g., ethnic, gender, racial)</li> <li>• Presence of child labour</li> <li>• Presence of forced labour</li> <li>• Workplace equity</li> <li>• Community representation</li> <li>• Skills development</li> </ul> <p><b>Worker Rights</b></p> <ul style="list-style-type: none"> <li>• Freedom of association</li> <li>• Workplace conflict</li> <li>• Participation and representation</li> </ul>	<p><b>Conditions of Work</b></p> <ul style="list-style-type: none"> <li>• Salary and compensation</li> <li>• Hours of work</li> <li>• Environmental hazards (e.g., light, noise, heat, weather)</li> <li>• Travel and accommodation</li> </ul> <p><b>Security of Personnel</b></p> <ul style="list-style-type: none"> <li>• Kidnapping, property theft, mugging, etc.</li> <li>• Confidentiality</li> </ul> <p><b>Health and Safety</b></p> <ul style="list-style-type: none"> <li>• Refer to e3 Plus content on Health and Safety)</li> </ul>
<b>Business Relationships</b>	
<p><b>Respect for Human Rights</b></p> <ul style="list-style-type: none"> <li>• Overall human rights record</li> <li>• Basic understanding of human rights issues</li> <li>• Basic human rights framework</li> </ul> <p><b>Workplace Issues</b></p> <ul style="list-style-type: none"> <li>• All items listed under Workplace (above) apply to business relationships</li> </ul>	<p><b>Ethical Conduct</b></p> <ul style="list-style-type: none"> <li>• Code of conduct</li> <li>• Overall record of conduct</li> <li>• Attitude towards bribery and facilitation payments</li> <li>• Collusion with civil servants</li> <li>• Conflict of interest</li> </ul>
<b>Community</b>	
<p><b>Land and Natural Resources</b></p> <ul style="list-style-type: none"> <li>• Changes in land use patterns</li> <li>• Historical exploration or mining land use</li> <li>• Free prior and informed consent</li> <li>• Land ownership disputes</li> <li>• Conflicts over access/use of natural resources</li> <li>• Loss of rights over, and access to, resources</li> <li>• Reliance on the land for subsistence</li> <li>• Fairness of management of natural resources (e.g. water)</li> <li>• Government exploitation of natural resources to fund conflict or power struggles</li> <li>• Displacement/relocation concerns</li> <li>• Access/risk of degradation to resources that support the basic essentials of life (e.g., water, food)</li> </ul>	<p><b>Culture</b></p> <ul style="list-style-type: none"> <li>• Cultural norms, social taboos</li> <li>• Presence of heritage and other sites of archaeological, cultural, or historical significance</li> <li>• Local language or dialect</li> <li>• Local tradition, rites and cultural practices</li> <li>• Cultural integrity (e.g., sense of place, aesthetics and heritage)</li> <li>• Impacts on shared customs, obligations, values, language or dialect, religious belief and other elements which make a social or ethnic group distinct</li> </ul> <p><b>Security</b></p> <ul style="list-style-type: none"> <li>• Social tensions or serious divisions within the community</li> <li>• Crime rate and types of criminal activity</li> </ul>

<ul style="list-style-type: none"> <li>• Risk of forcing people into exile or threatening traditional ways of life</li> <li>• Community based ownership of resources</li> <li>• Inequalities among communities through land reform</li> </ul> <p><b>Integrity (structure, cohesion, stability, character of the community)</b></p> <ul style="list-style-type: none"> <li>• Leadership structure, capability and characteristics</li> <li>• Empowerment, decision-making and participation</li> <li>• Autonomy</li> <li>• Community infrastructure services, voluntary organizations, activity networks</li> <li>• The way people work, play and interact with family, friends and cohorts on a day-to-day basis; density of acquaintanceship</li> <li>• Family solidarity, family and friendship networks</li> <li>• Influx or outflows of temporary workers</li> <li>• Relocated populations</li> <li>• Transience/stability of local population</li> <li>• Economic development</li> </ul> <p>Social Equity (social, cultural, economic)</p> <ul style="list-style-type: none"> <li>• Attitudes towards women and minorities</li> <li>• Vulnerable segments of society,</li> <li>• Fairness of access to education, health care, jobs, economic opportunities (including women and minorities)</li> <li>• Regional inequalities</li> <li>• Increased concern about social justice issues in relation to minority or indigenous groups</li> <li>• Urban/rural gaps</li> </ul> <p><b>Attitudes</b></p> <ul style="list-style-type: none"> <li>• Trust and credibility in political and social institutions</li> <li>• Attitudes toward policy/project</li> <li>• Concerns about social well-being</li> <li>• Perceptions of risk, health and safety</li> <li>• Fears about the future of their community</li> <li>• Aspirations for their future</li> <li>• Perception of belonging, security and livability</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal networks (e.g., drugs, natural resources, human trafficking), level of control of the area</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Economic vulnerability, dependency, loss of autonomy,</li> <li>• Unemployment level in the community</li> <li>• Opportunity cost (e.g., loss of other options, economic diversity)</li> <li>• Current and project economic growth, inflation and interest rates</li> <li>• Labor supply and costs</li> <li>• Employment creation (e.g., direct, indirect, temporary)</li> <li>• Prosperity and income levels</li> <li>• Opportunities for local sourcing of goods and services</li> <li>• Impact on local businesses</li> <li>• Inflationary effects</li> <li>• Tax revenue levels</li> <li>• Monetization of economy</li> <li>• Equitable access to opportunities and accrual of benefits</li> <li>• Competition for economic resources</li> </ul>
<p><b>Government</b></p>	
<p><b>Legitimacy/ Stability</b></p> <ul style="list-style-type: none"> <li>• Distribution of power and authority, check on executive power.</li> <li>• Representativeness of government (e.g., ethnic, religious, gender)</li> <li>• Respect for the constitution</li> <li>• Participative decision-making, free and fair elections</li> </ul>	<p><b>Respect for Human Rights</b></p> <ul style="list-style-type: none"> <li>• Overall human rights record</li> <li>• Adherence /implementation of commitments under international human instruments,</li> <li>• Basic human rights framework</li> <li>• Indigenous peoples policy and record (FPIC)</li> <li>• Protection of Indigenous peoples rights</li> <li>• Prosecution of human rights violations (e.g., torture,</li> </ul>

<ul style="list-style-type: none"> <li>• Equality of access to political activity</li> <li>• Authority, power, and ability of national, regional, and local governments</li> <li>• Likely changes in the political environment</li> <li>• Historical resentments, independence movements, revolutionary or reactionary parties</li> </ul> <p><b>Capacity (Local and National)</b></p> <ul style="list-style-type: none"> <li>• Ability to deliver programs, meet basic needs</li> <li>• Workload on institutions, local government, regulatory bodies</li> <li>• Institutional knowledge in key issue areas (mining, human rights, Indigenous peoples, environment)</li> <li>• Leadership capability and characteristics</li> <li>• Size and structure of local government</li> </ul> <p><b>Legal</b></p> <ul style="list-style-type: none"> <li>• Requirements and related to:             <ul style="list-style-type: none"> <li>• Mining exploration and development</li> <li>• Employment/worker rights</li> <li>• Working conditions</li> <li>• Worker health and safety</li> <li>• Environment</li> <li>• Land tenure</li> </ul> </li> <li>• Adequacy of domestic laws to prevent harm to people and the environment</li> <li>• Rule of law (e.g., independence/effectiveness of the judiciary)</li> <li>• Enforcement of the law and legal decisions</li> <li>• Equality before the law</li> <li>• Possibility to undertake legal action against state</li> </ul> <p><b>Media</b></p> <ul style="list-style-type: none"> <li>• Censorship</li> <li>• Independence of the media from partisan agendas</li> <li>• Ability to reflect the views of all social groups</li> </ul>	<p>illegal detention)</p> <ul style="list-style-type: none"> <li>• Gender equality</li> <li>• Protection of civil liberties including freedom of speech and of assembly</li> <li>• Protection from religious, ethnic or cultural discrimination</li> <li>• Privacy and freedom of private practices (e.g., dress code, private life)</li> <li>• Recognition of minority languages and cultures</li> <li>• Human rights abuses by security forces</li> </ul> <p><b>Corruption</b></p> <ul style="list-style-type: none"> <li>• Overall level of corruption</li> <li>• Collusion between private sector and civil servants</li> <li>• Facilitation payments institutionalized in the bureaucracy</li> <li>• Existence of anti-corruption programs</li> </ul> <p><b>Security</b></p> <ul style="list-style-type: none"> <li>• Criminal networks (e.g., drugs, natural resources, human trafficking), level of control of the country/economy</li> <li>• Conflict between ethnic communities</li> <li>• Private armies/armed paramilitary groups</li> <li>• Security forces conducting illegal activities (e.g., road blocks, extortion)</li> <li>• Influence of security forces over political decision-making</li> <li>• Presence of security forces, militias, war criminals, or rebel groups from neighbouring territories</li> <li>• Arms trafficking</li> </ul> <p><b>NGOs</b></p> <ul style="list-style-type: none"> <li>• Protection of NGOs, right of association by the state</li> <li>• Liveliness of civil society</li> <li>• Ability to influence policy processes and communities</li> </ul>
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**Exploration Table**

The purpose of the Exploration Table below is to identify activities that may result in risk by stage of exploration. This Table is a scanning tool that can help explorers to undertake a risk management strategy. This Table does not attempt to offer guidance for undertaking the activity. It should also be noted that the sequence of activities presented here is a generic sequence that is not necessarily the sequence that would be applied by all explorers.

**Table A-3: Exploration Activity Table**

Stage of Exploration	Main Activity	Supporting Activities
Target generation (identify target areas)	Office based theoretical review	<b>Desktop research</b> <ul style="list-style-type: none"> <li>• Review technical papers</li> <li>• Research databases</li> <li>• Brainstorm with colleagues</li> <li>• Purchase maps from government agencies</li> <li>• Contact knowledgeable persons in region or country</li> </ul>
	Commodity research	<b>Desktop research</b> <ul style="list-style-type: none"> <li>• Review technical papers</li> <li>• Research databases</li> <li>• Brainstorm with colleagues</li> </ul>
	Economic, political and infra-structure research	<b>Desktop research</b> <ul style="list-style-type: none"> <li>• Contact knowledgeable persons in region or country</li> <li>• Review technical papers</li> <li>• Research databases, brainstorm with colleagues</li> </ul>
Land acquisition	Pegging, or notification of licences	<b>Community engagement</b> <ul style="list-style-type: none"> <li>• Begin process of engagement</li> </ul> <b>Land acquisition</b> <ul style="list-style-type: none"> <li>• Research legal and regulatory agency requirements for title acquisition</li> <li>• Prepare and submit applications to explore</li> <li>• Conduct non-invasive reconnaissance</li> </ul> <b>Staking</b> (directly on the ground or electronically) <ul style="list-style-type: none"> <li>• Consult or hire local expertise and engage logistical support and surveyors</li> <li>• Obtain rights to prospect</li> <li>• Obtain field access permissions</li> </ul>
Prospecting	Reconnaissance rock, soil and water sampling (including biological and chemical analysis in lakes, streams, and sediments)	<b>Community engagement</b> <ul style="list-style-type: none"> <li>• Continue engagement and identify community development opportunities (e.g., hire locally to support sampling)</li> </ul> <b>Field work</b> <ul style="list-style-type: none"> <li>• Individual access to land</li> <li>• Non-invasive</li> </ul>

Stage of Exploration	Main Activity	Supporting Activities
	Mapping	<p><b>Preparation/planning</b></p> <ul style="list-style-type: none"> <li>• Home office assembles base maps and plans field program, field logistics and technical support</li> </ul> <p><b>Access</b></p> <ul style="list-style-type: none"> <li>• Use and maintain existing trails and roads</li> <li>• Use low flying aircraft and helicopters</li> <li>• Avoid using all-terrain vehicles off-road and establishing new trail cuts and survey grids, unless necessary and community has been engaged</li> </ul> <p>Field work</p> <ul style="list-style-type: none"> <li>• Examination and grab sampling of outcrops of rock and soil</li> <li>• Flag and GPS sample sites</li> <li>• Non-invasive</li> </ul> <p><b>Accommodation</b></p> <ul style="list-style-type: none"> <li>• Fly-camps or temporary accommodations</li> <li>• Fuel supply and storage for vehicles and aircraft</li> <li>• Waste management: solid waste landfilled; human waste buried or burned; other domestic waste burned or removed to off-site disposal facility</li> </ul> <p><b>Community engagement</b></p> <ul style="list-style-type: none"> <li>• Continue engagement; begin negotiation of community agreements; identify community development opportunities</li> </ul> <p><b>Labour</b></p> <ul style="list-style-type: none"> <li>• Local guides provide knowledge and protection</li> </ul> <p><b>General opportunity</b></p> <ul style="list-style-type: none"> <li>• Map cultural and archaeological features, and other social and geographic items and boundaries; special flora and fauna may be noted, together with related local knowledge and lore</li> </ul> <p><b>Restoration</b></p> <ul style="list-style-type: none"> <li>• Recontouring and revegetation of disturbed areas are needed if, in consultation with the community, the surface had to be disturbed</li> <li>• Removal of all work materials</li> </ul> <p><b>Home office reporting</b></p>
	Geophysics	<p><b>Select detection method</b></p> <ul style="list-style-type: none"> <li>• Magnetometer carried along parallel tracks across ground</li> <li>• Very low frequency electro-magnetic ground survey; electromagnetic surveys either on ground or from air</li> <li>• Induced polarization surveys, which involve placing lines of electrodes in the ground surface along survey lines</li> <li>• Gravity surveys along ground surface</li> </ul> <p><b>Community engagement</b></p> <ul style="list-style-type: none"> <li>• Continue engagement, begin negotiation of community agreements, identify community development opportunities</li> </ul> <p><b>Field work</b></p> <ul style="list-style-type: none"> <li>• Aim to be non-invasive</li> <li>• Manual digging</li> <li>• Line cutting for access for geophysical measurement across ground</li> <li>• Low flying aircraft/helicopters</li> </ul> <p><b>Home office reporting</b></p>

Stage of Exploration	Main Activity	Supporting Activities
Target confirmation	Geochemical reconnaissance and sampling	<p><b>Community engagement</b></p> <ul style="list-style-type: none"> <li>Continue engagement, finalize and implement community agreements, contribute to community development</li> </ul> <p><b>Plan sampling program</b></p> <ul style="list-style-type: none"> <li>From near or on surface rock sampling over a large area, to more intense invasive and deeper penetration by excavating trenches or test pits; develop sampling protocols</li> </ul> <p><b>Field program execution</b></p> <ul style="list-style-type: none"> <li>Trench or pits excavation</li> <li>Trench and pit support</li> <li>Soil and rock stockpiled</li> <li>Bulldozer use</li> <li>Excavator use</li> <li>Manual digging</li> <li>Backfilling and revegetation with local species</li> </ul> <p><b>Home office reporting</b></p>
	Drilling	<p><b>Community Engagement</b></p> <ul style="list-style-type: none"> <li>Continue engagement</li> </ul> <p><b>Plan drilling program/select method</b></p> <ul style="list-style-type: none"> <li>Various methods may be used to attain various depths and to recover various types of sample ranging from chips to intact core sticks</li> </ul> <p><b>Plan site logistics</b></p> <ul style="list-style-type: none"> <li>Equipment is usually large and heavy, although small portable rigs may be used for shallow drilling</li> <li>Larger equipment moved onto site by helicopter, or manually. Drill equipment delivered by truck or tracked vehicle and move from point to point along simple access trails or larger right of way</li> </ul> <p><b>Field program execution</b></p> <ul style="list-style-type: none"> <li>Increased requirements for access, labour, camp accommodation, fuel, etc.</li> <li>Increased requirement for road access and/or helicopter to move rigs</li> <li>Water supply for drilling; mud mixing and storage for drilling</li> <li>Cutting and sampling core</li> <li>Management of drilling fluids</li> <li>Backfilling and sealing holes</li> </ul> <p><b>Restoration</b></p> <ul style="list-style-type: none"> <li>Recontouring</li> <li>Revegetation of disturbed areas, and</li> <li>Removal of all work materials</li> </ul> <p><b>Home office reporting</b></p>
Target testing	Chemical assaying	<p><b>Sample Testing</b></p> <ul style="list-style-type: none"> <li>Plan QAQC program and chain of custody</li> <li>Transport samples from site to laboratory</li> <li>Sample preparation and assay testing</li> </ul>



Stage of Exploration	Main Activity	Supporting Activities
Resource <sup>5</sup> evaluation	Scoping or preliminary economic analysis	<p><b>Community engagement</b></p> <ul style="list-style-type: none"> <li>Continue engagement and community development, revisit community agreements, FPIC for next stages</li> </ul> <p><b>Preliminary studies</b></p> <ul style="list-style-type: none"> <li>Engage engineering team and qualified person</li> <li>Conduct site visit</li> <li>Preliminary assessment of geological information, resource estimation and potential to develop economic mine</li> <li>Present possible mining scenarios and associated concepts, preliminary estimate of cost to build and extract minerals of interest</li> </ul>
	Commence baseline environmental studies	<p><b>Site environmental characterization</b></p> <ul style="list-style-type: none"> <li>Multi-disciplinary environmental studies require various field studies, involving sampling, surveying, mapping of multiple parameters (including acid rock drainage)</li> <li>Weather stations may be installed</li> <li>Requirements for access, labour, accommodation, fuel may increase</li> <li>Characterization of alternative sites for mining and related project activity</li> </ul>
	Commence socio-economic baseline studies	<p><b>Site socio-economic characterization</b></p> <ul style="list-style-type: none"> <li>Comprehensive socio-economic characterization of local and regional areas potentially affected by possible scope of project activity</li> <li>Contact with and survey of local and regional populace, administrations, and industries</li> </ul>
	Geotechnical	<p><b>Site characterization</b></p> <ul style="list-style-type: none"> <li>Obtain geotechnical engineering data in conjunction with geological data collection</li> <li>Similar activities to geological data collection by drilling</li> <li>Instrumentation installed in drill holes</li> </ul>
	Metallurgical testing	<p><b>Ore and waste characterization</b></p> <ul style="list-style-type: none"> <li>Conducted offsite</li> <li>Simulates processing methods</li> <li>Conducted on representative drill samples of ore and waste materials</li> <li>Refines estimates of rate of production and its cost</li> <li>Refines process method</li> <li>Refines prediction of any effluents and waste materials, such as tailings and slag</li> </ul>
Advanced exploration	Bulk sampling (as required, to confirm metallurgical testing for the mill)	<p><b>Community engagement</b></p> <ul style="list-style-type: none"> <li>Continue engagement and community development</li> </ul> <p>Advanced exploration</p> <ul style="list-style-type: none"> <li>Significant ground clearing</li> <li>Excavation and stockpiling of ore and waste overburden soils and rocks</li> <li>Design of environmental controls and monitoring</li> <li>May require drilling and blasting</li> <li>May be open pit or underground</li> <li>Closure and reclamation plan (includes plan for acid rock drainage)</li> </ul>

<sup>5</sup> Resources in a NI 43-101 report describe “what is in the ground” in a first public announcement.

Stage of Exploration	Main Activity	Supporting Activities
Reserve <sup>6</sup> definition	Pre-feasibility engineering <sup>7</sup>	<b>Option selection</b> <ul style="list-style-type: none"> <li>• Additional site visits</li> <li>• Topographic surveying</li> <li>• Preliminary project designs</li> <li>• Compare alternatives</li> <li>• Reduce uncertainty in costing and in meeting other design objective</li> </ul>
	Environmental, social and economic impact analysis	<b>Community engagement</b> <ul style="list-style-type: none"> <li>• Continue engagement and community development, negotiation of revised community agreements, compensation/participation with stakeholders, traditional knowledge, FPIC for next stages</li> </ul> <b>Assess environmental impacts</b> <ul style="list-style-type: none"> <li>• Field studies to collect environmental data</li> <li>• Preparation of impact assessment by multi-disciplinary scientific experts</li> <li>• Review by government and peer specialists to assess and verify impact assessment</li> <li>• Government approval of impact assessment</li> </ul>
	Feasibility study	<b>Detailed project evaluation</b> <ul style="list-style-type: none"> <li>• Additional site visits, topographic surveying</li> <li>• The most advanced and sophisticated engineering analysis of options and costs</li> <li>• Provides basis for a decision to proceed and to seek financing</li> </ul>
	Permitting, final design, procurement	<b>Construction preparations</b> <ul style="list-style-type: none"> <li>• Prepare detailed management and monitoring plans</li> <li>• Negotiate plans with government agencies</li> <li>• Detailed final design</li> <li>• Place contracts for construction</li> </ul>

<sup>6</sup> Only after the pre-feasibility level of understanding – including a financial evaluation – is undertaken can resources be converted to reserves.

<sup>7</sup> The pre-feasibility study may require a bulk sample (as described in the advanced exploration stage, above). As such, the bulk sample may occur after the pre-feasibility study and before the feasibility study.

### **3.0 Community Engagement**

***This section is currently being updated***

## 4.0 Community Development

Community development involves different organizations and individuals in a community working collaboratively to improve the well-being of the community. The goals of community development include:

- improving the health and prosperity of the community as a whole;
- creating equitable conditions and outcomes for health and well-being;
- fostering sustainable community initiatives;
- fostering sustainable self-sufficiency for the people involved;
- increasing personal worth, dignity, and value; and
- building awareness of and resolving issues in the community

The U.N. Millennium Declaration (2000) reflects universal recognition that all organizations – public and private – have a role to play in contributing to the conditions that will enable all human beings to truly realize their right to an adequate standard of living and well-being. The Millennium Declaration was ratified by 189 heads of state in September 2000, and is considered one of the most significant United Nations' documents of recent time. It provides a common vision for how to tackle the world's most important development challenges. The Declaration has resulted in eight focus areas for development, called the Millennium Development Goals (MDGs).

These are:

- eradicate extreme poverty and hunger;
- achieve universal primary education;
- promote gender equality and women empowerment;
- reduce child mortality;
- improve maternal health;
- combat HIV/AIDS, malaria, and other diseases;
- ensure environmental sustainability; and
- develop a global partnership for development

The MDGs are important for explorers as areas of focus for their community development initiatives. Issues such as sustainable development, human rights, poverty alleviation and security are increasingly interlinked. They have implications for all sectors of society and cannot be resolved without collaborative effort. While governments carry the primary responsibility for achieving these goals, they cannot meet these commitments without enabling, regulating and partnering with the private sector.

However, explorers are not expected to do it all, or to do it alone. The practical ability of explorers to generate wealth, invest in a community, or provide leadership will vary depending on the amount of time that they will be in a community, the phase of exploration, and the social, economic and environmental impacts of the project. If a project will have a relatively low social, environmental and economic impact and is in the early phase of exploration, and the company will have a short-term presence in one area, then the company may not have the opportunity to

### Key Terms

**community development** is social and economic development that benefits and is inclusive of all segments of the community

**community well-being** is quality of life of the community generally the health, happiness and prosperity of the community

**e3 Plus: A Framework for Responsible Exploration** is the expanded framework that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

### Main International Instruments

[Universal Declaration of Human Rights](#) (1948)

[United Nations Millennium Declaration](#) (General Assembly Resolution 55/2)

UNDP [Millennium Development Goals](#)

contribute extensively to community development, beyond engaging with the community and using local goods and services. On the other hand, if a project will have a relatively high impact and is in an advanced stage of exploration or the initial phases of development, and/or the company has a long-term presence in one area, then there may be more substantive opportunities to contribute to the development and well-being of the community.

The ability of explorers to contribute to community development is based on forging a relationship of trust with the community. Community engagement and community development are inextricably linked. Without effective community engagement, well-meaning efforts to promote community well-being can miss their mark, or work at cross purposes to the goals and aspirations of the community.

#### **4.1 Why Is Community Development Important for Explorers?**

Pre-existing conditions (e.g., environmental degradation, ethnic and class conflict, poverty, lack of infrastructure and public services, poor education) are both short-term and long-term financial, market and reputation risks for business. They also represent increased costs of doing business (e.g., hiring and training costs, security costs, insurance costs, the cost of capital). There is also a moral obligation for business to avoid contributing to these problems.

Tackling the focus areas that MDGs are designed to address is critical to creating and sustaining the factors that contribute to business success at the local, national and international levels. These factors include:

- stable and secure societies;
- open, well-governed economies;
- predictable financial systems;
- healthy and competent workers; and
- the prosperity needed to fuel investment and growth

Companies in the extractive sector face strong pressure to forge good relations with neighboring communities. Explorers operate in remote areas – areas where land tenure may be disputed, exploration activities can affect access to natural resources, the eventual downstream mining operations often have significant environmental and social impacts. Companies establish and maintain positive relationships with local, regional, national and international stakeholders by working collaboratively with communities, government agencies and other organizations to address development challenges. Community development programs can help explorers earn and maintain a “social license to operate” by demonstrating a tangible and credible commitment to working with and improving the lives of local people.

Governments are more willing to support access to resources for companies with a solid track record of social performance. As social expectations and competition for mineral resources increases, explorers will find that a solid reputation of good community relations and community development will be a source of competitive advantage.

#### **4.2 Using this Guidance**

Explorers can contribute to the MDGs and community development through:

- wealth generation;

- social investment and charitable giving; and
- corporate leadership

Guidance in this section is organized based on the above three categories of involvement in community. In each section, general concepts are introduced and then recommended practices are discussed.

### 4.3 What Are the Community Development Challenges for Explorers?

The main challenges that explorers face in community development are:

- **The intermittent, mobile, and transient nature of exploration activities:**

This challenge impedes the opportunity for explorers to establish long-term relations in the community and to invest in development initiatives that require long term or continuous commitment. Exploration is usually conducted in campaigns of relatively short duration, separated by intervals when the company has no presence – or a very limited presence – on the property and in the surrounding communities. These intervals may also result in the property changing ownership, in communities that may have received commitments from previous owners

- **Managing unrealistic expectations regarding economic benefits resulting from their activities:**

This challenge particularly arises during the unpredictable and variable exploration phase. Communities often do not distinguish between exploration and mining activities and believe that explorers have come to their communities to open a mine and offer a variety of benefits. Typically, communities perceive exploration activities as a future mine delivering enormous new wealth and have unrealistically high expectations of what the benefits might be. Failure to manage expectations regarding exploration activities can lead to potential conflict between parties, false perceptions, disillusionment at lost opportunities and resentment against explorers.

Another facet is that social expectations of community development programs are based on actions expected of large multinationals. Most exploration companies are small and medium enterprises. This is particularly problematic in places where there is a lack of state presence in communities, and the expectation is that private companies will fill the shoes of the state by providing infrastructure and other services. Unrealistic community expectations are compounded by the fact that there is a legacy of practice by mining proponents – including explorers – of overemphasizing the positive benefits of a project for the purpose of obtaining community support.

- **Creating dependencies or relationships that are not compatible with sustainable development:**

A dependency mentality occurs when communities look to companies as providers of resources in compensation for social and environmental damage. These relationships can be avoided when the responsibility for the community development initiative is shared among the community, local government, and local enterprises (i.e., sense of ownership over initiatives creates independence)

- **Social disparity, conflict and inter-group rivalry:**

Community development may become the source of conflict and jealousy within and

between communities. These may emerge or re-emerge in areas where there is a history of tension or conflict. For example, explorers may offer contracts to one nearby community, but have no opportunities to offer another nearby community. In places where a rivalry already exists between these two communities, the explorer may be seen as exacerbating this rivalry or inciting conflict. In addition, social disparity within communities may exist between groups who participate and benefit from exploration-related activities (e.g., young men) and those who do not (e.g., women, elders). This disparity may be fuelled by exploration activities where those who do not benefit may feel burdened by real or perceived negative effects of these activities

#### 4.4 Summary of Recommended Practices

- Establish a policy commitment to community development
- Define what you want to achieve. Set goals for community development and have a clear definition of the business case for your organization
- Plan early. Community development initiatives should be developed simultaneously with project design; planning should begin with the initiation of the project due diligence. Understand the local and national social and economic context. Use tools such as community profiling and social impact assessment to define the stakeholders, identify impacts and begin to define community needs
- Establish and maintain effective community consultation throughout all phases of exploration. Community consultation is critical to proper community development, it is the basis of trust and helps companies identify community needs, define the community development responsibilities of stakeholders and manage expectations. Engage early with the community, government, local authorities and civil society to determine development priorities
- Develop a community development program and link program activities to objectives and principles that are in line with community plans. Develop program activities timeline that is aligned with business project development activities
- Clearly define your commitments to community development at the very early stages of project development and with changes in stages of exploration. Unmanaged expectations lead to mistrust between the company and community. Work with the community, government agencies and NGOs to define roles and responsibilities. Make clear that they all have roles to play and that the company cannot shoulder all of the responsibilities. Communicate defined roles and responsibilities clearly and consistently
- Form strong, strategic partnerships with local or national governments, local and international NGOs, other local businesses, universities, research institutes, multilateral organizations, unions or other stakeholders with similar objectives
- Measure and report performance. This will enable your stakeholders to monitor progress and evaluate the effectiveness of community development initiatives. Be transparent about successes and shortcomings

#### Related *e3 Plus* Guidance

[Developing and Communicating Policies](#)

[Objectives and Targets](#)

[Project Due Diligence](#)

[Community Engagement](#)

[Sphere of Influence](#)

[Monitoring and Measurement](#)

[Performance Reporting](#)



#### 4.5 What is Wealth Generation?

Wealth generation is the creation of assets in a community, in terms of both physical and human capital. Explorers can contribute to wealth generation in a community by:

- **Creating jobs:** Recruiting locally, both within the company and along the supply chain, and facilitating constructive organized labour relations
- **Generating income and investment:** Paying local wages, taxes, dividends, and royalties, and attracting other investment
- **Developing local human resources:** Investing in training, skills development, health and safety in the workplace and along the supply chain
- **Building local business capacity and business linkages:** Through local procurement practices, especially with medium, small and micro-enterprises
- **Supporting technology and knowledge transfer:** Spreading use of modern technologies and exploration practices
- **Establishing physical and institutional infrastructure:** Investing in infrastructure that supports operations and that simultaneously expands local capacity (e.g., communication, roads and transportation networks, water wells)

Explorers' contribution to wealth and income generation will vary according to phase, impact, and duration of activities. Wealth generation will be different for short-term and long-term exploration programs. For example, in shorter term programs, due to the compressed timeframe, investing in the skills development of a local workforce may not be feasible, whereas for longer term programs, there may be the opportunity to undertake a broader spectrum of employment and skills development initiatives.

#### 4.6 Recommended Practices

- As part of project due diligence explorers should:
  - identify all applicable laws related to taxes, revenues and royalties and the information necessary to correctly determine them;
  - find out how these taxes, revenues, and royalties are distributed among local, regional, and national governments, so as to be prepared to explain this to communities and manage expectations;
  - identify legal requirements related to contributions to the local community (e.g., such as benefit agreements);
  - identify the goods and services that can be obtained through local contractors and suppliers;
  - determine your capacity and opportunity to contribute to wealth generation in the community, given the scope, duration and impact of the exploration activity and available

#### Risk For Explorers

- Creating economic dependencies or dependent relationships that do not allow for continued wealth generation or capacity far into the future, beyond the time the explorers are operating near the community
- Failure to manage unrealistic expectations

#### Key Terms

**wealth generation** is the creation of assets both in terms of physical and human capital

**economic development** is a long-term increase in living standards, increased income, better education and health as well as environmental protection

**social well-being** is a state of affairs where the basic needs of the population are met, including: (i) income levels are high enough to cover basic wants; (ii) there is no poverty; (iii) unemployment is insignificant; (iv) there is access to social, medical and educational services; and (v) everyone is treated with dignity and consideration

**inclusive business models** is a business model that benefits both low-income communities and businesses by including communities on the demand side as employees, producers and business owners, at various points along the value chain

#### Key Reference Sources

UNDP [Growing Inclusive Markets](#)  
[Creating Value for All: Strategies for Doing Business with the Poor](#)

[Business and the Millennium Development Goals: A Framework for Action](#)

[CSR in the Mining Industry – The Risk of Community Dependency](#)

[Mining and Poverty Reduction: Transforming Rhetoric into Reality](#)

[The U.N. and the Private Sector –](#)

[A Framework for Collaboration](#)

**Key Terms**

**engagement** is a process of contact, dialogue, interaction and creation of constructive relationships, that ensures all parties of interest are informed and participating, in a way that is satisfactory to them, in decisions that affect their future

resources;

- based on your assessment of wealth generation opportunities associated with the project, formulate how you will communicate these opportunities to the local community, so that the community has an accurate picture of benefits accruing from the project; and
- understand the local cultural, social and economic context and the implications that they have for employment and wealth generation. It is recommended that a stakeholder analysis be completed, to identify key stakeholders and their likely interests and relationships
- To the extent possible, hiring and procurement practices should give preference to locally qualified employees and local suppliers of goods and services. Implement local hiring and procurement practices that are appropriate to the scope of the project. These should include practices to:
  - establish and publicize to local communities – in the local language – policies regarding employment opportunities;
  - inform local communities regarding available jobs and the required skills and training;
  - identify local, potentially qualified employees through community skills database, local employment authorities, or early community engagement activities;
  - improve access to employment opportunities for women, youth and other minority groups;
  - establish and publicize – in the local language – policies regarding the use of local suppliers of goods and services; and
  - whenever possible, give sufficient notice to local contractors and suppliers regarding needed goods and services
- Identify where infrastructure required for exploration and development may also benefit the community. As an example: Access roads, airstrips and docks<sup>8</sup> that are built to gain access to exploration sites, can also be used by communities to improve access to community resources or services (e.g., community re-supply), or to facilitate the development of new activities (e.g., tourism). Engage with the community prior to infrastructure development to discuss how infrastructure can be sited and developed so that it will have sustainable benefit to the community and avoid any negative effects (e.g., increased access for poaching). Consider how infrastructure will be maintained after the completion of the project. Also, negotiate agreement on how the community will access facilities and use any common infrastructure during the course of the project
- Compensation or other benefits should be directed in a way that enhances existing programs. With the exception of employment and payment for goods and services, limit or avoid the use of money as a vehicle for providing benefit. Communities may not have sufficient capacity to ensure money is directed in a manner that promotes long-term community

<sup>8</sup> Especially in remote and isolated communities, such as northern Canada.

development and well-being

- Facilitate local wealth generation and manage expectations through active community engagement (e.g., open houses) prior to the commencement of exploration activities and throughout the life of the exploration process. Use engagement to maintain dialogue with the community, including the following:
  - discuss expectations and the extent to which your organization has the capacity to help the community achieve those expectations;
  - establish and define roles and responsibilities;
  - learn community protocols and social relations that will, ultimately, influence interaction between explorers and communities;
  - explain to the communities the potential costs, benefits and risks resulting from exploration activities;
  - define priorities for employment, training and skills development;
  - identify-qualified local employees, contractors and suppliers;
  - identify common infrastructure that can benefit both explorers and communities; and
  - agree on mechanisms for addressing community concerns, claims and/or questions regarding exploration activities

#### 4.7 Charitable Giving and Social Investment

Charitable giving is the voluntary donation of time, services, effort, or money to support a particular cause or objective and has traditionally been one of the main sources of social and cultural maintenance and development throughout the world. More recently, social investment has evolved as a more strategic approach to traditional charitable giving. Social investment is “the venture capital of social development”<sup>9</sup>; it involves creating new or scaling up existing streams of financing for community development initiatives that seek to offer long-term, sustainable solutions. In traditional charitable giving, the donor is most often not directly involved in the design or management of the charitable activity. However, social investment typically requires not only the contribution of funds or in-kind resources but often some involvement in the direction of the initiative.

Charitable giving and social investment strategies include:

- donations and in-kind contributions (e.g., fundraising, humanitarian assistance);
- employee volunteerism to support education and training in environment and health;
- mission and program related investment; and
- institutional building and social/enterprise development programmes, through vehicles such as lending/micro-lending, loan guarantees, equity investments and charitable/venture capital

Charitable giving and social investment can be used to support a broad spectrum of community development initiatives, so explorers should have a clear strategy for how they will apply their resources. Explorers need to define to what extent they can meaningfully contribute to development and how they can best leverage their contribution, to meet the strategic interests of the company and provide benefit to society and the environment. These initiatives should be designed carefully to take into account: (a) the company’s corporate strategy and risk management objectives; and (b) local and national development strategies and community capacity. If this is done well, charitable giving and social investment programs will support a positive relationship between the community and the explorer and leave a long-term benefit for all parties involved. This involves understanding:

- community priorities;
- existing local, regional or national development plans;
- development initiatives being undertaken by others (e.g., government, agencies, civil society, other businesses); and
- the potential to work in partnership with others to maximize benefits

#### Risk For Explorers

- Challenges such as an unskilled workforce, environmental degradation, HIV/AIDS, conflict, inadequate health and education systems can increase costs and risks of business
- Risk of confusing charitable giving or capacity building with unethical practices of lobbying or bribery; a clear distinction between the two practices must be made

#### Key Terms

**social investment programs** are voluntary contributions companies make to local communities and the broader society where they operate, with the objective of creating mutual benefit to external stakeholders, often through the transfer of skills and resources

**charitable giving** is a voluntary, altruistic action aimed to benefit or support people or organizations and their activities, often manifested as a donation of time, services, effort, or money

**sustainable investment** is investment that continues to make positive impacts well beyond the end of company involvement

**partnerships** are voluntary and collaborative relationships between more than one party, in which all participants agree to work together to achieve a common purpose or to undertake a specific task; partners agree to share risks, responsibilities, resources, competencies and benefits

cultural maintenance is to maintain cultural rights as protected in the [International Covenant on Economic, Social and Cultural Rights, 1966](#) where culture must be respected in a

<sup>9</sup> Center for Philanthropy and Social Investment, <http://www.swinburne.edu.au/business/philanthropy/philanthropy.htm>

#### 4.8 The Benefits of Partnerships

Given that exploration activities tend to be transient, temporary and intermittent, explorers often do not have the capacity to develop or sustain independent initiatives. Explorers should consider partnerships with local, national, and international public agencies, other private enterprises, and qualified non-governmental organizations to deliver programs. The benefits of partnerships are that they can provide opportunities to share effort, risks, resources, competencies, and provide long-term benefits. Partners work together for a common purpose and can develop suitable programs and leverage benefits to local communities, to contribute to sustainable development. As an example: De Beers has partnered with various organizations and companies (e.g., World Bank, International Diamond Manufacturers Association, Partnership Africa Canada) to create the Diamonds for Development Initiative (DDI). This is a non-governmental organization that encourages responsible small-scale mining that contributes to lasting community benefits. In establishing successful partnerships explorers should consider:

- Capacities of the partners: Partners should bring complementary skills and resources to the initiative
- Alignment of goals: Partners should have common goals, even if they do not share common interests
- Lines of responsibility: Roles and expectations of partners should be clear
- Independence from the explorer: The ability to maintain program independent of explorer
- Existing relationship with the community: Partners should be in a position to help the explorer understand the community politics, culture, economics, etc

way that ensures human dignity; culture includes established patterns of knowledge, behaviour and belief and can include cultural sites, traditional knowledge, language, land use practices, etc.

##### 4.8.1 Recommended Practices

- Determine if there are community development programs already in place in the immediate locale or the region, being managed by government and/or non-government organizations. Contributing to pre-existing programs and adding capacity to them may be more effective and sustainable in the long-term, than initiating new ones managed by the company alone
- Community participation is necessary for sustainability of any development initiative. When designing programs, make provision to build community capacity to manage projects and establish links with other organizations. Use a community organizing approach to design and manage development projects
- Leverage core competencies. Explorers have skills, resources and affiliations that can be used to promote community development. These include: entrepreneurial, financial, management, human resources, and other employee skills; equipment; and political and business connections. Explorers can leverage core competencies to develop skills, knowledge,

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and innovation in communities. For example, providing basic office administration advice, or sharing resources on proposal writing, could help local governments win federal government infrastructure funding or manage existing contracts

- Use affiliations and connections to advocate for change, or to help communities build links to other organizations and resources
- Work toward sustainable initiatives:
  - Focus on developing skills, capacity and improving community income levels. Community development should provide benefits long after explorers leave the community
  - Plan and set a timetable for how you will hand over responsibility for projects to communities, governments, or other organizations, once the program has become sustainable and self-sufficient
  - Diversified funding is critical to sustainability of development projects. Encourage (and wherever possible require) community and government funding and partner with other organizations. In addition to greater financial stability, diversified funding also inspires ownership from a broader base in the community
  - Work with other organizations, such as developmental, non-governmental organizations, that have the resources, technical capacity and long-term presence in the community
- Take into account the special needs and aspirations of vulnerable or marginalized groups. Look at development initiatives that target particularly vulnerable groups (e.g., women, ethnic or religious minorities, the very poor, indigenous peoples, other socially or economically disadvantaged groups). Identify these groups upfront, to understand power dynamics between various groups when mapping the local community and assessing the impacts of the project
- Evaluate the performance of development initiatives and use evaluations to adapt performance. Develop key performance indicators before program implementation
- Invest in community development initiatives where the following overlap:
  - community priorities and ownership for the initiative;
  - local and national policy priorities (these can be identified in existing community plans or development strategies);
  - business risks and opportunities and company core competencies;
  - priorities and competencies of any contributing organizations (e.g. government, NGOs, communities)
- Reduce potential for inter-group rivalry by directing contributions at a regional and international scale and investing in development initiatives that aim to bring groups together

**Key Reference Sources**

International Petroleum Industry Environmental Conservation Association, [Creating Successful, Sustainable Social Investment](#)

[U.N. Global Compact, Partnerships for Development](#)

[U.N. Office for Partnerships](#)



### 4.9 Corporate Leadership

Leadership is a process of guiding or building support of others to accomplish a common goal. Explorers can use leadership to promote community development and well-being by: acting as advocates of change, helping to bridge “governance gaps” and strengthening institutional capacity.

There are numerous ways explorers can stimulate dialogue and improve governance. Explorers are not expected to undertake these efforts on their own. Public advocacy and policy dialogue is best done in cooperation and association with others, such as business associations (chambers of commerce and organisations of employers), other business leaders, national and international aid agencies and NGOs. Explorers can work through established organizations and informal networks at the regional, national and local level.

Explorers must be careful to make the distinction between business “lobbying” and public advocacy. These are two contradictory expectations of the appropriate role of companies in the political domain, and whether and how companies should use their influence and participate in public policy debate, are explained in the Responsible Political Engagement section and recommended practices are provided.

### 4.10 What Are Governance Gaps?

Sustainable solutions cannot take root without good governance and strong institutions. A government operating effectively allows business to prosper and provides opportunities for community development. Gaps and problems in public governance can take numerous forms. Bad governance refers to corrupt organizations, ineffective or discriminatory laws, civil conflict or security threats, or human rights violations. Weak governance refers to insufficient capacity or political will, failure to enforce laws or deliver public goods and services, or failure to plan and respond to emergencies or humanitarian crises. Underdeveloped governance refers to the lack of rules and capacity to create a level playing field on particular issues (e.g., labour, environment, product or technical standards).

#### 4.10.1 Recommended Practices

- Stimulate dialogue on the focus areas of MDG priorities of poverty, healthcare, environment, education and the underlying root causes
- Advocate for policies that will help improve social and environmental conditions, and the efficiency of public administration and service delivery
- Work jointly with government to develop more effective, fair and transparent regulations
- Develop voluntary codes of conduct that will improve performance of the service delivery
- Communicate clear direction and advice

### Risk for Explorers

- Local governments often have limited capacity to manage benefits and impacts of exploration and development projects effectively
- Weak or bad governance (e.g., corruption, discriminatory or ineffective laws, civil conflict, security threats, human rights violations, etc.) has demonstrated it undermines business development and the role of business in community development

### Key Terms

**corporate leadership** is individual companies and/or business associations engaging in public dialogue and efforts to build or strengthen public institutions to support change, or improve governance systems at the local, national, or global level

### Key Reference Sources

World Economic Forum (2008). [Partnering to Strengthen for Public Governance](#).

WEF [Global Corporate Citizenship](#)

## 4.11 Frameworks and Planning Tools to Implement Guidance on Community Development and Well-Being

### 4.11.1 Partnership Assessment Tool

The [Partnership Assessment Tool](#) is a simple tool developed by four U.N. organizations to improve the impact, effectiveness and consistency of public/private partnerships for development. The tool can help explorers work with civil society organizations or government agencies, to plan and evaluate the factors of partnership projects that can impact the success and sustainability of the project. The tool consists of a short online questionnaire that leads the user to assess the expected value of a partnership and identify ways to improve partnership activities. The tool helps users to determine the following:

- Is there an alignment among partners on objectives, core competencies, and risks?
- Is the internal management (i.e., the responsibilities, management and monitoring processes, resources) sufficient to maintain the partnership?
- Is the external management (i.e., transparency, engagement, benefits, positive relationships) sufficient to maintain effectiveness?
- Is this partnership being replicated or scaled up by partners or other parties?
- To what extent do partnership activities impact the environment?
- To what extent do partnership activities improve social well-being and development?

The tool can also help partners identify potential problem areas that can then be improved upon, assess preparedness, identify opportunities for early adjustment, and to position for successful project implementation.

### 4.11.2 Exploration Agreements

One tool explorers may employ to support community development and well-being is exploration agreements with Indigenous organizations. For example, Memorandums of Understanding and Participation Agreements are often struck between Aboriginal peoples and explorers throughout Canada. The agreements not only provide terms and conditions on land access, but can also define the way explorers can direct benefits to the community and its people in support of community development and well-being. A key benefit for explorers when signing these agreements is support of the Indigenous organization for the exploration project. These agreements can commit the explorer to negotiating a subsequent, more in-depth agreement, sometimes termed an Impact and Benefit Agreement, to define a more rigorous relationship, should a project develop to the mine stage.

Explorers have to use caution when signing these agreements and consider factors described in the guidance above. They also must identify who can sign

### Key Reference Sources

[Partnership Assessment Tool](#)

[Equator Principles](#)

IFC [Performance Standards on Social and Environmental Sustainability](#)

Livelihoods Network, [Sustainable Livelihoods Framework Guidance Sheets](#)

[IBA Research Network](#)

[UNHCR Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation](#)



the agreement with them on behalf of the community – considering both legal representation and ability and legitimacy to act on behalf of the community – so that it will have community support. Stakeholder analysis and management activities should be done in co-ordination when negotiating this agreement. Refer to sections on [Community Engagement](#) and [Indigenous Peoples Rights](#) for further guidance.

#### **4.11.3 Social Impact Assessment**

Social Impact Assessment (SIA) provides knowledge of potential and real social, economic and cultural effects of a project, and allows these to be integrated into management and decision-making processes. It is most commonly linked to the Environmental Impact Assessment and project permitting. SIA may be used by explorers to conduct a brief evaluation of the potential effects of an exploration project on community development and well-being. This may be useful when conducting engagement activities, to help manage expectations of benefits and also identify opportunities for any charitable or other community development initiatives and monitor the success of these initiatives.

#### **4.11.4 Sustainable Livelihoods Framework**

The [Sustainable Livelihoods Framework](#) (SLF) is a framework that can be used in concert with planning tools, such as SIA or community profiling, to evaluate community development and well-being and identify opportunities to improve development activities. The framework focuses on the condition of communities, by providing a structured way of defining the capacity of a community in five assets:

- 1) **Human capital:** Skills, knowledge, ability to work, and health
- 2) **Social capital:** Resources that people draw on to pursue their life goals (e.g., networks, organizations, relationships, safety nets)
- 3) **Financial capital:** Financial resources (e.g., savings, assets, income, pensions, state transfers) used to pursue livelihood objectives
- 4) **Natural capital:** Natural resources and environmental services
- 5) **Physical capital:** Infrastructure and goods needed to support people and the economy

This framework's assumption is that people and communities pursue a range of livelihoods and outcomes (e.g., community well-being versus economic growth), by drawing on a range of assets, so as to undertake a variety of activities. Community development activities must consider:

- existing assets of a community;
- desired outcomes of a community;
- external shocks and trends (e.g., climate change, demographic change); and
- structures and processes beyond the control of a community

#### **4.11.5 A Human Rights Based Approach to Development**

A Human Rights Based Approach to Development is an approach used in the course of human development with the objective of promoting and protecting human rights. The guidance provided throughout Framework for Responsible Exploration is aligned with this framework. Additional definitions and guidance on the topic of human rights is included in the Human Rights section.

The human rights based approach highlights not only the objectives of protecting and promoting human rights and abstaining from violating human rights, but also the process of accountability. To meet this approach, it is important to consider that people are at the centre of the development process, and strategies for empowerment or capacity-building and participation of communities and other stakeholders should be emphasized. These strategies should pay extra attention to vulnerable groups (e.g., women, minorities, Indigenous people, prisoners).

## 5.0 Ethical Conduct – Introduction

Many countries rich in mineral resources are mired in poverty and weak governance. As a result of weak governance, struggles for control of resources often lead to conflict, human rights violations and sometimes civil war. Public revenues earned from resources are often squandered through corruption.

The relationship in many countries between natural resources, conflict and corruption has led to increasing focus on the extractive sector and its potential role in countering corruption. The mining sector is generally considered to be one of the business sectors particularly susceptible to corruption.<sup>10</sup> The high commercial value of natural resources makes them a target for acts of corruption, misappropriation, or plundering. The management of mineral rights is characterized by complicated regulations and high levels of government control that provide numerous opportunities for manipulation and corrupt practices.

### 5.1 What Are Corruption and Bribery?

**Corruption**<sup>11</sup> is the misuse of power and position for private gain. Corruption is a failure of governance; it erodes the integrity of social, political and judicial institutions and makes it difficult to enforce accountability and transparency. Corruption undermines sustainable development by diverting resources from their proper use. Resource income intended for infrastructure development, institutions and social services is siphoned off into the pockets and bank accounts of those with power and position. As a result, corruption's greatest impact is on the poor and disadvantaged. Money diverted through corrupt practices is used to finance armed conflict and, in many parts of the world, systemic corruption enables organized crime and civil conflict to flourish.

**Bribery**<sup>12</sup> is the practice of offering someone money, services, or other valuables, in order to persuade them to do something in return. There are two sides to bribery: (1) the supply side, those that offer bribes; and (2) the demand side, those that demand and accept bribes.

Corruption and bribery come in many forms. They may be blatant – such as an outright demand for cash or commission in a contract – or they may come disguised as a gift, favour, donation, or political contribution. They may also be paid or accepted by agents and others working on behalf of the company and without the company's knowledge.

The difference between gifts and/or entertainment used to promote good relations and a bribe is the size of the gift and the intent of the giving. Lavish gifts and entertainment given with the express intent of gaining a business advantage are bribes. Many countries have laws regulating the types of gifts and entertainment that can be accepted by government personnel.

### Key Terms

**corruption** is the misuse of entrusted power and position for private gain

**bribery** is the practice of offering someone money, services or other valuables, in order to persuade him or her to do something in return

**sponsorship** is financial or in-kind contribution given in support of a cause or event in exchange for advertising and other reputation benefits to the sponsoring organization

**donation** is avoluntary financial or in-kind gift to a charitable organization or cause with no direct benefit to the donor in return

**political contribution** is a contribution made to a politician or a political campaign or a political party

**facilitation payment** is a payment made to a public official for the purpose of expediting or facilitating the performance of a routine governmental action, not to obtain or retain business or any other improper advantage

### Key International Instruments

[OECD Convention on Combating Bribery of Foreign Public Officials](#)

[UN Convention Against Corruption](#)

[Extractive Industries Transparency Initiative](#)

[Transparency International](#)

Publish What You Pay

<sup>10</sup> As confirmed by trends of the Transparency [International Bribe Payers Index](#) (TI-BPI). However, the BPI index shows that Canadian firms are seen as least likely to bribe abroad.

<sup>11</sup> Forms of corruption include: Bid-rigging, collusion by bidders, falsification and misrepresentation of costs, theft and embezzlement, bribery, fraud, extortion, cronyism, nepotism, patronage and graft.

<sup>12</sup> Forms of bribery include: kickbacks, facilitation payments, gifts and gratuities, commissions and protection payments.

Facilitation payments (sometimes called “grease money”) are typically small amounts of money demanded by government officials to “facilitate” services to which you are entitled; examples include obtaining a visa or clearing equipment through customs. In many countries, they are very common and are often accepted as entitlements with government employment.

Regardless of its shape and size, bribery is corruption by definition and is widely criminalized through international and national laws. Even if the country in which the project is taking place does not have anti-bribery laws, the company’s country of origin may have laws that can enforce penalties for bribery of foreign officials.

The international legal framework that companies are facing is subject to rapid change and has been strengthened in recent years. The principle that it is illegal to bribe foreign officials is universally recognised in the U.N. Convention Against Corruption and is outlawed by the OECD Convention on Combating Bribery of Foreign Public Officials. It is also recognized in the following intergovernmental instruments:

- Inter-American Convention Against Corruption (1996);
- European Union Instruments on Corruption;
- Council of Europe Conventions on Corruption (1997-1999); and
- The African Union Convention on Preventing and Combating Corruption (2003)

The United States was the first country to impose extraterritorial obligations on U.S. corporations and foreign corporations listed on U.S. stock exchanges with respect to the bribery of foreign public officials. Today, most of the 37 OECD countries that have ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) have passed enabling legislation in their countries, making it illegal for domestic corporations to bribe foreign public officials. Canada ratified the OECD Convention in 1998; in 1999, bribery of public foreign officials became an offence under the [Corruption of Foreign Public Officials Act S.C. 1998, c. 34](#) (CFPOA). Bribery is a criminal offence, which carries severe financial penalties and even the risk of imprisonment for directors and managers of the company involved. Depending on the circumstances, Canadian companies may be liable for the offences committed by their employees and representatives (i.e., agents).

Exploration companies often seek the assistance of a local partner or agent to help them do business in jurisdictions where they lack the contacts and local knowledge. Local agents and partners can be extremely beneficial and assist with leading a company through the complex tangle of regulations and bureaucracy. However, they also have the potential to increase legal and reputational risk to the company if they engage in unethical or illegal activities. The problem may be not just the local partner or agent, but their associates. In these situations, standard due diligence processes may not adequately provide explorers with the information they need to make prudent decisions about agency and partnership relationships.

As more and more countries move to criminalize bribery within their own jurisdictions and regulate domestic companies working abroad, more sophisticated forms of personal gain are being invented to avoid detection. This means that explorers may find it difficult to understand and respond appropriately to these disguised forms of corruption. Also, as more and more countries move to privatization of essential services, corruption is migrating to the private enterprises that provide these services. Often these private enterprises are in a position of

strength and control, which enables them to extract the monetary “inducements” that were once only the purview of the public service.

### **5.2 Why Is Countering Bribery and Corruption Important to Explorers?**

There are many reasons why it is in the best interests of explorers to fight corruption in all its forms. These include:

- **Criminal prosecution:** Most forms of corruption are illegal. The reality that laws against corruption may not always be enforced in the foreign jurisdiction, in which they occur, is no protection and no reason not to resist corruption. Increasingly, countries are passing laws making it illegal for domestic companies to engage in corrupt practices in another country
- **Additional costs:** Studies show that corruption adds upward of 10 per cent to the cost of doing business
- **Extortion and blackmail:** Succumbing to pressure to pay bribes entangles companies in a cycle of corruption and exposes them and their personnel to blackmail. Once a company has demonstrated a willingness to pay a bribe, the company is more susceptible to additional demands. Since bribery is a criminal activity, it also exposes company personnel to extortion and blackmail.
- **Internal corruption:** Unethical behaviour is insidious. Companies that engage in or tolerate corrupt practices of public officials cannot expect respect for ethical behaviour within their own organization
- **Missed business opportunities:** Corruption distorts competition. Where bribes are the basis of granting access or tenure to natural resources, there is no security or legal protection. Explorers are vulnerable to exclusion or expulsion at the whim of corrupt officials
- **Project liability:** Corruption can impact the transaction value of an exploration project. If a mining company acquires a property from an exploration company that has engaged in or been complacent to bribery, the property can represent a financial and reputation risk to the acquirer. In some cases, concessions granted under corrupt practices are liable to be withdrawn or renegotiated by subsequent government administrations because of the allegations of corruption

### 5.3 Recommended Practices

Establish an internal management framework of procedures, processes and controls to prevent bribery and counter corruption. This should include:

- **A Code of Conduct or Statement of Business Principles:** This applies to all operations and business partners and commits the organization to:
  - conduct its business fairly, with integrity and with transparency; and
  - refrain from taking or offering bribes, whether directly or indirectly
- **Rules on gifts and entertainment:** This applies to what can be given and what can be accepted. These rules must be communicated and understood, not only by company personnel but also by business partners
- **A company policy governing charitable donations and sponsorships:** Payments of donations and sponsorships should always be paid directly to an organization and not an individual. Make sure there is a proper review of the legitimacy of the organizations to which donations and sponsorships are given. Personnel should be alerted to the fact that requests for donations and sponsorships by government officials could be disguised solicitations for bribes
- **A company policy for political contributions:** Some companies simply do not allow any company sponsored political contributions. However, if a company chooses to contribute to political parties, there should be clear rules as to how contributions are made. At a minimum these should include:
  - review and approval of the contribution by more than one individual in a company (e.g., legal counsel, the Board of Directors, senior management team);
  - contributions should be paid to political organizations and not to individuals;
  - restrictions on the timing of contributions – they should not coincide with negotiations, contract or approval processes with government; and
  - provisions for transparency – political donations should be reported to the Board of Directors, shareholders and the public
- **Project due diligence:** To understand the risks of corruption and how those risks can be mitigated, the following should be completed:
  - Determine whether the country and location where the company will be operating represents a high risk of corruption. Information on countries is available from embassies, trade organizations, and NGOs such as Transparency International
  - Pay special attentions to social indicators – such as the level of tribalism, nepotism and military control within local jurisdictions –

### Related e3 Plus Guidance

[Writing and Implementing a Code of Conduct](#)

[Boundaries of Responsibility](#)

[Project Due Diligence](#)

[Grievance and Complaints Mechanisms](#)

### Due Diligence Sources

Transparency International publishes surveys of perception of the level of corruption in most countries [Corruption Perception Index](#)

[Business and Anti-Corruption Due Diligence Tools](#)

### Key Reference Sources

[Business Principles For Countering Bribery -Small and Medium Enterprise \(SME \) Edition](#) (Transparency International)

[Transparency International Website](#)

[Business and Anti-Corruption Portal.](#)<sup>13</sup>

[United Nations Mining, Environment and Development Website](#) – includes useful articles on wide range of topics

[OECD Fighting Corruption Page](#)

[U 4 Anti-corruption Resource Center](#)

<sup>13</sup> The [Business Anti-Corruption Portal](#) is an information source for small and medium sized companies operating in emerging markets and developing countries. The portal has examples of procedures and checklists related to due diligence of suppliers and agents, although these are geared to anti-corruption they can provide explorers with excellent templates for due diligence review for all aspects of social and environmental performance.

that indicate the potential for increased risk for corruption and bribery. (For other risk flags, refer to the [Social Issue Table](#) under Project Due Diligence)

- Review the operations and activities and identify the areas where the potential for extortion or demands for bribes may occur. In a high risk environment, a careful examination of any aspects of the project where the company requires government approvals or services is highly recommended
- Identify and take the time to understand the applicable laws and regulations related to bribery and political contributions
- Determine what checks and balances the company will need to ensure the integrity of others conducting activities on the company's behalf (e.g., agents, suppliers, partners, contractors)
- **Reasonable measures to protect against the unethical conduct of business partners.** This should include the following:
  - Establishing a company policy to hire only those agents that are reputable and that demonstrate personal integrity and personal competence
  - Discussing company expectations of ethical behaviour upfront, when negotiating business relationships
  - Conducting simple due diligence process prior to selecting business partners to check that they are legitimate and do not have a record of unethical activity. This due diligence may include interviews and appropriate background checks into the following aspects of the organization:
    - structure and ownership;
    - financial position;
    - reputation with members of the local community, other business partners, business leaders, international firms and the local embassy; and
    - policies and positions on bribery and corruption
  - Considering their independence, when choosing agents to act on your behalf. Do they have involvement or ties to local interests that put them in a conflict of interest? (See guidance on [Conflict of Interest](#).)
  - Recording and reviewing the results of the due diligence process from time to time, to see if anything has changed or if new information has come to the attention of the company
  - Including provisions in contracts that require compliance with the company's Code of Conduct, and also making provision for:
    - expressly prohibiting payment of bribes;
    - terminating the agreement if the Code of Conduct is not



- followed (e.g., bribes are paid or accepted);
- the right of the company to audit its business partners; and
- regular reporting of activities and their monitoring by a company employee
- Keeping clear records of commissions, payments and instructions given to business partners
- Reviewing commission payments to check that they are in proportion to the services provided to the company's business
- Establishing mechanisms (e.g., complaints procedures, whistleblower policies), so that personnel and business partners are comfortable reporting violations of the Code of Conduct and concerns about corruption without fear of reprisal
- Establishing procedures to receive, investigate and respond to allegations of corruption
- Training employees and, where necessary, appropriate business partners. This training should:
  - be tailored to the size of the organization and the potential risks – for a smaller organization, a roundtable discussion may be all that is required; what is important is the effectiveness of the training, not the size and sophistication of the training program;
  - help employees and business partners understand:
    - the purpose of the company's Code of Conduct;
    - the individual and corporate risks associated with bribery and corruption;
    - the various guises of bribery and corruption and ways to deal with each;
    - the individual responsibility for compliance with the business principles and for contributing to making the program work;
    - the idea that no-one will be penalized for losing business by not paying or accepting a bribe; equally, that accepting or offering a bribe or otherwise violating the business principles is subject to disciplinary action;
    - the individual responsibility to report concerns or suspicions of unethical conduct, and how to do so; and
    - where to get information and advice
- Initiating appropriate relationships with governmental officials by:
  - introducing the company to senior level government representatives and explaining that the company has a Code of Conduct and that it is company policy to conduct its activities with a high degree of integrity; and



- requesting government representatives establish a procedure to be followed when approvals or other matters that require government action are delayed by government officials without valid reasons
- Explorers are not expected to tackle corruption alone and should work with other business leaders and NGOs and institutions (e.g., the World Bank, industry associations, coalitions) to:
  - encourage government transparency in countries that are particularly relevant to the exploration industry; and
  - encourage policies and legislative reforms that:
    - reduce ministerial and bureaucratic discretion; and
    - promote transparency and accountability through an independent judiciary, freedom of the press and an efficient corruption-free police system and civil service

#### 5.4 What Is Conflict of Interest?

“Conflict of interest” occurs when the interests of an individual or corporation conflicts with their duty or responsibility to another party and the trust vested in them. Conflicts of interest can prejudice the ability of the individual or corporation to act objectively and can lead to actions that are not honest and open.

The concept of conflict of interest covers a wide range of situations, all of which are not discussed here. A conflict of interest occurs when an individual or a corporation is in a position to exploit a position of trust in some way for personal or corporate benefit. The most obvious type of benefit is financial, but other types of benefit are equally relevant (e.g., prestige, power, career advancement, market position). A conflict can occur not only when the person or corporation benefits directly, but when there is benefit to an associated person or corporation, for example a family member, close associate, affiliated company. A conflict of interest may also arise if the matter causing the conflict involves a decision or action about a competitor or adversary.

A conflict of interest is “actual” or “real” where the person or corporation is or will be influenced by their private interests. In some cases, the mere perception that a conflict of interest might exist is enough to make such a conflict an issue for concern – whether or not it is “real”, or whether or not it tempts an individual to act inappropriately. In other cases, there is a foreseeable or “potential” conflict where the person or organization has an interest that may compromise their impartiality in the future. Some categories of behaviour that can give rise to conflict of interest include:

- **Self-interested investment, procurement, contracting or hiring:** When a person uses a position to influence a decision to invest resources in projects, or to contract with an organization in which they have an interest. This may also include giving a job to a friend or family member outside normal hiring processes
- **Improper influence:** When a person accepts some form of benefit in exchange for using their position to influence activities or decisions that are in someone else’s interest

#### Key Terms

**conflict of interest** occurs when an individual or a corporation (either private or governmental) is in a position to exploit his/her or their own professional or official capacity in some way for personal or corporate benefit (OECD definition)

- **Misuse of information or property:** When a person uses information or property to which the person has access at work for some personal benefit
- **Inappropriate outside activity:** When a person's activities outside of the corporation are in conflict with the interests of the corporation
- **Accepting undue benefits:** When significant gifts place an affected person under obligation to the donor of the gift

It is not always easy to determine whether a conflict exists, or whether a conflict will significantly impact on a person's actions. Consider the following three scenarios:

- 1) A contractor sends one of your project managers tickets to a major supporting event, in appreciation for all the business they received from your company
- 2) Your company hires a senior government employee that previously worked in the regulatory agency that grants exploration approvals
- 3) An employee working for your company owns shares in another exploration company, which stakes claims in the same geographical location where you have an active exploration program

Are these conflicts of interest? Potentially they are, depending on whether the person in conflict is in a position to exploit the situation for private gain. For example, if the project manager discloses the gift of the tickets, the gift falls within company gift policies and the manager follows all procurement rules in awarding contracts, is there a conflict? If the ex-government employee is given direct responsibility for negotiating mining approvals for your company, is the conflict of interest more or less likely? Finally, if the employee who owns shares in another exploration company discloses the ownership and is not privy to any information related to your exploration activities, is there still a conflict? These cases illustrate that there are many situations where an employee or corporation risks creating an actual, potential, or perceived conflict of interest.

These three examples also illustrate that, as with all other areas of ethical conduct, there are some common themes. The first is that disclosure and transparency is a key to managing risk and maintaining integrity. The second is that ethical issues often overlap. Conflict of interest can overlap with issues of bribery and corruption, with issues of confidentiality and use of corporate information, with appropriate use of company resources and responsible political engagement. Issues of ethical behaviour are rarely black and white; they depend on the facts of the specific situation. Therefore, it is difficult to lay down clear rules that will promote ethical behaviour. However, what companies can do is put into place the systems to promote a culture of ethical behaviour within the corporation.

Any person or corporation that is entrusted with information, authority or discretionary powers should take reasonable steps to ensure that they are not placed in a situation in which their judgment is likely to be compromised. Conflicts of interest are common in today's complex business environment and may not necessarily be unethical, or wrong. However, it is how conflicts of interest are identified and managed that is important. If conflict of interest situations are not properly managed, they can endanger the integrity of your company and contribute to corruption.

### 5.5 Why Is Managing Conflict of Interest Important?

When not identified and managed correctly, conflict of interest can have consequences to an individual or corporation that range from simple breakdown of internal controls to serious legal, financial and reputational consequences. When a conflict of interest results in economic or financial loss to the individual or corporation on whose behalf the person or corporation owes a duty, then a fraud has occurred. Conflict of interest can exist on its own, or can be an intricate part of other frauds (e.g., bribery, illegal gratuities, embezzlement, misappropriation or diversion of company property, contributing to abuse of power, breach of contract, insider trading).

### 5.6 Recommended Practices

The recommended practices suggested in the section on Ethical Conduct and Developing and Implementing a Code of Conduct are the backbone for managing issues of ethical conduct within a corporation, including conflict of interest. In those sections, explorers are encouraged to develop an ethical Code of Conduct. As part of, or complementary to, an ethical Code of Conduct, explorers should establish procedures to identify, manage and resolve conflict of interest situations. The recommendations outlined below provide additional guidance and some practical tips for identifying and managing conflicts of interest that can be incorporated into your corporation's conflict of interest procedures.

- **Definition:** Procedures should provide a clear and realistic description of what circumstances and relationships can lead to a conflict of interest situation in your corporation
- **Screening:** Establish conflict screening where appropriate. Screens involve identifying upfront the type of interests that would prevent individuals from holding certain positions, or participating in certain decisions or activities. Screening is designed to prevent conflict of interest situations from arising. However, some corporations find screens difficult to administer and rely solely on declaration and mitigation procedures to manage conflicts when they arise
- **Self-Declaration:** Procedures should specify how employees and agents self-declare potential conflicts of interest. Although company executives and senior managers have an important role in ensuring conflict of interest situations are managed appropriately within an organization, the identification of conflict of interest is an individual responsibility. In most instances, only the person involved may be aware that a conflict of interest exists; therefore, the responsibility for disclosing the conflict rests with the individual. Disclosing the conflict of interest does not resolve the conflict, but provides the starting point for assessing the situation to determine what additional action is required. To encourage greater candour and to eliminate barriers to self-declaration, procedures should, to the extent possible, provide for confidentiality of the disclosure. Some mechanisms for declaring interests include:
  - **Interest registers:** A common conflict management tool, particularly for senior company management and executives. Registers require persons to periodically declare certain types of interests. The register is updated on a periodic basis (typically annually) but any interests that arise between updates are required to be reported. A standard form for declaring interests should be used, to ensure that information is clear

#### Related e3 Plus Guidance

[Ethical Conduct](#)

[Developing and Implementing a Code of Conduct](#)

[Training Staff and Contractors](#)

[Grievance Mechanisms](#)

#### Key Reference Sources

[OECD Guidelines for Managing Conflict of Interest In the Public Service and Toolkit for Managing Conflict if Interest in the public Service](#) – provides useful guidance for private organizations

and consistent

- **Declaration procedures prior to certain key events or decisions:** The corporation should define what key events trigger the need for a conflict check (e.g., major financial transactions or investments), and institute a due diligence check prior to such events, to enable anyone participating in the decision or transaction to declare or discuss a potential conflict
- **Honour system:** This makes practical sense, since most conflict of interest policies rely on employees to identify and self-declare. The following are some important questions that individuals should ask, when considering whether or not a conflict of interest exists:
  - Do I have personal or private interests that may conflict, or be perceived to conflict, with my responsibility to the corporation?
  - Could there be potential benefits for me, now or in the future, that could cast doubt on my objectivity?
  - How will my involvement in the decision/action be viewed by others? Perception is critically important. Are there risks associated for me/my corporation?
  - Does my involvement in the decision appear fair and reasonable in all the circumstances?
  - What are the consequences if I ignore a conflict of interest? What if my involvement is questioned?
  - Have I made any promises or commitments in relation to the matter?
  - Do I stand to gain or lose from the proposed decision/action?
- **Management:** Once a conflict is identified, there are a number of actions that can be taken to mitigate or eliminate the conflict. The appropriate action to be taken will depend on the circumstances of each situation and the severity of the consequences. The actions taken to address or eliminate the conflict should always be well documented. Some management options may include:
  - Restricting the role or involvement of the person(s) with the conflict in the decision or subject matter of the conflict. As an example: Having the person(s) refrain from participating in making decisions or abstaining from voting on decisions, or restricting access to information related to the conflict of interest
  - Recruiting an independent third party to assist in an action or decision (e.g., ask a disinterested party to sit on a hiring decision where there is a declaration of conflict). There will be situations where no appropriate third party is available
  - Removing the individual from affected duties. If it is not practical to restrict involvement, then complete separation or removal from the matter altogether may be required
  - Relinquishing the interest. In cases of serious conflict, the individual may choose to drop the private interest which is causing the conflict (e.g., divesting shares or membership in another organization,
  - Resign. In serious cases where other solutions are not possible, the individual may have to resign from the position creating the conflict
- **Communicate and enforce conflict of interest procedures:** Set clear rules on what is expected with conflict –of interest situations and train employees and agents to know what is required of them in identifying and declaring conflict of

interest situations. Define consequences for non-compliance with conflict of interest procedures, including disciplinary sanctions

### 5.7 Responsible Political Engagement

The right to play an active role in public policy debates that affect our interests is a fundamental cornerstone of democracy. This is not just the right of individuals, but also for organizations including business. However, the involvement of companies in politics has become increasingly controversial, following scandals over political contributions and heavy-handed tactics by organized business groups. When companies seek to influence public policy in areas related to their own immediate economic and operational interests, it is rarely seen as a force for the good. Business “lobbying” is seen as undue influence in the political domain and conjures up images of graft and backroom deals. It is seen as a practice that should be curtailed or at least heavily regulated. This has resulted in passing laws in many western democracies, limiting political contributions by business and regulating lobbying.

On the other hand, there is a growing expectation that companies should contribute to the public policy debate to promote policies that benefit the greater interest of society: human rights, community development and well-being, public security, ethical conduct and good governance. In this context, companies are increasingly expected to use their influence, perspective, knowledge and expertise with policymakers and regulatory authorities. Promoting public policies that contribute to sustainable development is embedded in many voluntary standards on social responsibility, for example the U.N. Global Compact and the ICMM Sustainable Development Framework. When companies contribute to the public policy debate in this context, it is labelled as “public advocacy” and is considered a force for the good and a practice that should be encouraged.

These two contradictory expectations of the appropriate role of companies in the political domain, as well as whether and how companies should use their influence and participate in public policy debate, are rooted in a number of facts, including:

- Lobbying by business has a long and sometimes tarnished history. It is also extremely prominent; in some jurisdictions, professional lobbyists outnumber policymakers. Once considered to be something unique to Washington, it is growing rapidly in fast-growing large economies (for example Russia, China, India, Brazil and South Africa) and around new rule-making institutions (like the WTO in Geneva)<sup>14</sup>
- Public advocacy by corporations is a new phenomenon in response to the changing role of corporations in society
- Transparency around business lobbying and political contributions has only recently started to improve and in a limited way
- Lobbying is not a level playing field. The lobbying efforts of a large company or an entire industry association are quite different from the letter written by the average citizen to his or her elected representative. The economic clout of business, the fact that lobbying by business has gone hand-in-hand with substantial political contributions, as well as the fact that companies have the money to fund professional lobbyists, raise legitimate concerns about the undue influence of business and the

#### Key Terms

**lobbying** is the act of influencing decision-makers and promoting changes to laws and government policies, for the benefit of a specific company or organization.

**advocacy** is the act of influencing decision-makers and promoting changes to laws and government policies, for the good of society as a whole.

**e3 Plus: A Framework for Responsible Exploration** is the expanded framework that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

<sup>14</sup> *AccountAbility and U.N. Global Compact, Towards Responsible Lobbying Leadership and Public Policy (2005)*  
[http://www.unglobalcompact.org/docs/news\\_events/8.1/r1\\_final.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/r1_final.pdf)



independence of policymakers

- Lobbying by business is often conducted by trade associations. The sheer size and cumulative resources of many of these associations dwarfs other actors participating in the public policy debate. In addition, these organizations may lack appropriate mechanisms for reaching consensus on public policy priorities and the dissenting or alternative opinions within an industry may be lost or muffled

Other factors that have fuelled these two contradictory expectations are some very well publicized examples, where socially responsible companies engage in public advocacy to support policies that promote sustainable development, while at the same time lobbying for self-interested policies that contradict them.

Despite a tarnished reputation, lobbying is a valid activity for companies to: (1) pursue commercial interests on behalf of their shareholders; and (2) promote good, such as fostering sustainable development. There are five ways in which businesses can and should – individually, through trade associations and in co-operation with others – try to improve public policymaking:<sup>15</sup>

- 1) Provide technical and scientific analysis that helps policymakers in increasingly complex policy arenas
- 2) Identify the likely economic, social and environmental impacts of public policies at local, national and global levels
- 3) Act as brokers, synthesizing disparate policy positions for officials, easing information flows and seeking potential compromises
- 4) Mitigate the short-term approach to policymaking imposed by electoral cycles, opinion polls, focus groups and institutional rivalries
- 5) Provide a voice for those unable or unwilling to participate in decision-making directly

But how do companies – large and small – exercise their legitimate right to participate in public policymaking in a responsible way? It is difficult to delineate strict rules for responsible behaviour, because it reflects three interrelated areas of ethical conduct:

- 1) Conflict of interest
- 2) Bribery and corruption
- 3) Responsible political engagement

It is also by no means made any easier by the fact that cultural attitudes and laws related to lobbying and political engagement by business vary – often widely – between countries.<sup>16</sup> In recent years, however, a number of different sources have made recommendations for responsible corporate political engagement<sup>17</sup> that fall into five common themes:

- 1) **Legitimacy:** The methods used for political engagement should be broadly accepted, or meet the standard or care of a reasonable person.

<sup>15</sup> Extracted from AccountAbility and U.N. Global Compact, *Towards Responsible Lobbying Leadership and Public Policy* (2005) [http://www.unglobalcompact.org/docs/news\\_events/8.1/rl\\_final.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/rl_final.pdf)

<sup>16</sup> For example, in the U.K., payments associated with lobbying would be seen as corruption, while in the U.S. they are the price of doing business.

<sup>17</sup> These include recommendations by the Ethical Business Council in the U.K. *The Ethics of Influence*, the *EU Principles for Ethical Conduct on Lobbying*, the joint U.N. Global Compact and AccountAbility report on *Towards Responsible Lobbying Leadership and Public Policy* (2005), and *Woodstock Principles for Responsible Lobbying*

This represents a wide range of standards of behaviour, including practices related to political contributions, funding lobbying activities, undue influence, accuracy and truth of information used in supporting policy positions, and conflict of interest

- 2) **Accountability:** Organizations should conduct their business in accordance with well-defined, clear, open policies and be accountable to the organization's stakeholders
- 3) **Opportunity:** Activities should assist a company to become a more sustainable enterprise, as well as promote the common good
- 4) **Consistency:** Organizations should align their work with the organization's social and environmental commitments and policies
- 5) **Transparency:** Organizations should be open to public scrutiny. Organizations should publicly disclose their public policy positions, political contributions and affiliations

Of these five themes, transparency has emerged as key to bridging the different legal and cultural standards that apply to corporate political engagement worldwide. Transparency is the one universal constant that should be brought to bear, since full and open disclosure enables society to know the players in the formation of public policy and promotes accountability. This has resulted in initiatives such as the Extractive Industries Transparency Initiative (EITI) that supports improved governance in resource-rich countries, through the verification and full publication of company payments and government revenues from oil, gas and mining.



### 5.8 Recommended Practices

- Establish policies that set the ground rules for responsible political engagement, or integrate requirements into the company's code of conduct. Policies need not be elaborate, but should include:
  - responsible lobbying practices;
  - transparency related to political engagement activities;
  - how political donations are handled by the company; and
  - how the company deals with conflict of interest in public policy issues, hiring government officials to management or executive positions, or participating in government-led initiatives
- Review company lobbying activities to determine whether they are aligned with the company's social and environmental policies and commitments, including the commitment to e3 Plus: A Framework for Responsible Exploration
- Responsible public engagement should serve a valuable educational function, providing policymakers with relevant information and incisive arguments and analysis bearing on matters of public debate. Public policy positions should be based upon current, complete and accurate information and should not mislead or misinform
- In promoting their public policy positions, companies should not disguise their identity by acting confidentially through lobbyists or other organizations. Policymakers and the public are entitled to be accurately informed about who is promoting a particular policy and who is funding and supporting the promotion of specific policy positions
- Review the trade associations and other organizations that the company funds, to determine:
  - the lobbying positions of these organizations;
  - whether the policy positions align with the company's social and environmental policies and commitments;
  - whether they uphold standards of conduct are consistent with the company's social and environmental policies and commitments; and
  - how they represent members as a proxy force and how they account for minority opinions on public policy issues, when members do not agree with the majority position
- Be open and transparent about the political engagement, to the extent that it is possible within legal constraints and commercial confidentiality. Disclosure should include:
  - the organizations of which the company and its operating subsidiaries are members, if they engage in lobbying;
  - formal public policy positions, such as submissions to regulators and lawmakers and position on key industry issues;
  - political donations – to whom they went and how much; and
  - decision-making processes for political donations

### Related e3 Plus Guidance

[Developing and Implementing a Code of Conduct](#)

### Key Reference Sources

[Towards Responsible Lobbying Leadership and Public Policy \(2005\)](#)

**Key Terms**

e3 Plus: A Framework for Responsible Exploration is the expanded framework that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

## 6.0 What Am I Responsible For?

Most explorers can agree that the principles contained in e3 Plus: A Framework for Responsible Exploration apply to them, but many stumble over how to put these into practice, not because they are not well intentioned and do not want to take action, but because they often do not know or recognize where their responsibility to act begins and ends.

There is no clear map delineating the boundaries of responsibility; those boundaries very much depend on the facts and circumstances of each individual situation. The fact that the boundaries of responsibility are situation dependent is complicated by the subject matter of social responsibility: ethical conduct, human rights, environmental integrity, community well-being, etc. These subjects are nuanced and responsibility is based on a combination of legal, ethical and social expectations. In some jurisdictions, the legal standards related to these issues may not be in place, well-defined, or adequate to prevent harm to people or the environment. Enforcement may be weak and the rule of law fragile. Moreover, for any one subject or situation, explorers will face different expectations from different stakeholders and sometimes these expectations will compete or conflict with each other.

### 6.1 How Do I Determine What I Am Responsible For?

As previously mentioned, there is no convenient map but there are, however, a number of different concepts that apply to how a company goes about determining the scope of their responsibility. These include due diligence, sphere of influence and materiality.

**Due diligence** should be used by explorers to determine the scope of their responsibility to prevent harm to people and the environment.

**Sphere of influence** should be used by explorers to understand the scope of their responsibility to use their influence to encourage others to also act in an environmentally and socially responsible manner.

**Materiality** should be used by explorers to understand the scope of their responsibility to be transparent and disclose information to stakeholders.

Although these concepts apply to different facets of the scope of explorers' responsibility, they have common themes that explorers can integrate into their planning and decision-making processes.

## 6.2 How Do I Prevent Harm?

Due diligence is a term used to describe two different legal concepts. The first, and probably the best understood by explorers, is the investigation of a person or business for the purpose of making a decision (investigative due diligence). As an example: The process of investigation and evaluation for the purpose of making a decision on a potential acquisition of property, investment or other transaction, involving an examination of operations, financial records, management and the verification of material facts.

The second legal concept of due diligence is the effort made by an ordinarily prudent or reasonable person to avoid harm. The concept is that, if a person, group of persons, or the environment will be harmed by your actions, then you have a duty to take reasonable steps to avoid that harm. Canadian explorers are also likely to be familiar with this form of due diligence, since it is the cornerstone of the standard of care for health and safety and environmental performance.

The goal of this second concept of due diligence is to prevent harm by putting controls in place to address foreseeable risks. The key is the foreseeability of the risks; if the risks can reasonably be foreseen, then steps must be taken to address them. Due diligence does not allow for reckless behaviour, or wilful or blind ignorance of consequences. It is not whether you actually knew about the risk, but whether you ought to have known.

This implies a standard of behaviour or care that applies both to the effort taken to identify the risks of harm, as well as to the actions taken to control them. The standard of behaviour expected is that of a reasonable person and is commensurate with the risk of harm and severity of the consequences.

The key elements of due diligence are briefly described below. Remember that the intent of due diligence in this context is to prevent harm. Therefore, it is important not only to understand and assess the potential or risk of harm inherent in any action or omission, but also to design controls that are commensurate with the risks.

### 6.2.1 Understanding and Assessing the Risk

- There should be processes for identifying the risks and impacts resulting from operations and for understanding the likelihood and the degree of harm of those risks and impacts
- Factors that will affect the likelihood of risk in terms of issues related to social responsibility include:
  - impacts (hazards) associated with the activity itself (social<sup>18</sup>, economic and environmental);
  - country context (culture, governance, security, rule of law); and
  - relationships connected to their activities (e.g., with business partners, suppliers, state agencies, other non-state actors)
- The degree of harm is a factor of the scope and severity. Scope includes geographical extent of impact, duration of impact, numbers (people, animals) impacted. Severity relates to the consequences: seriousness of the injury or

<sup>18</sup> Social Impacts include – health and safety, human rights (e.g., labour rights, indigenous peoples, land management)

### Key Terms

**foreseeability** is reasonable anticipation that harm or injury would be a likely result of a certain act or an omitted act

**reasonable care** is ordinary prudence and intelligence an average, rational person would take to prevent harm under particular circumstances

damage and ability to mitigate the injury or damage

- Assessment of risks and impact must be made based on sound information, using rational analysis
- For information to be sound it has to be:
  - material or relevant to the risks and issues being assessed;
  - credible, from a reliable source and, where possible, verified or at least verifiable; and
  - sufficient upon which to draw reasonable conclusions
- Rational analysis involves assessing the likelihood of the risk and the severity of impact and consequences
- If there are changes to the original circumstances upon which the assessment of risk and impact was made, or new information comes to light, then the risks should be re-evaluated

### 6.2.2 Taking Reasonable Steps to Prevent the Harm

- Once an assessment of risks and impacts is made, reasonable steps need to be taken to address the risks
- The greater the likelihood of the risk and the degree of harm, the greater the responsibility, effort and rigour of control expected
- What is reasonable depends upon:
  - the alternatives available; what feasible alternatives could be employed to avoid or minimize harm and what would a reasonably prudent person do in the circumstances?
  - whether the actions taken conform to current technological and industry standards; however, where the scale and severity of the consequences are significant, a greater degree of care than industry standards may be necessary;
  - the extent of control or influence over the cause of the harm; no one should be held responsible for unforeseeable accidents or for activities that they cannot reasonably be expected to influence<sup>19</sup>
  - maintaining awareness of changing conditions and responding in a timely and appropriate manner, so as to mitigate the foreseeable harm;
  - whether the systems established to control the risks are properly implemented, their effectiveness is monitored and evaluated and action is taken to improve their effectiveness

### 6.2.3 Recommended Practices

Explorers should:

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<sup>19</sup> Note that domestic laws can in some cases establish even high standards of performance that impose liability, regardless of control or foreseeability.

- Adopt a risk-based approach to determining the extent of their responsibilities for preventing harm
- Understand not only the law that applies to their activities and operations, but also international norms and the national and international industry standards and best practices that apply
- Understand the ways in which their activities and operations might contribute to impacts caused by others through the relationships with business partners, agents, contractors, and state agencies. It is in this latter context that explorers can use the concept of sphere of influence, to help them identify and think about the potential relationships that may represent a risk

Throughout the *e3 Plus* guidance project, due diligence prior to commencement of each phase of an exploration activity and due diligence of contractors and agents are identified as recommended practices. Explorers can integrate a broader due diligence decision-making framework that incorporates social and environmental risks. This will help to determine the scope of their responsibilities to prevent harm and ensure that their actions are appropriate to the scope, scale and context of their operations and the specific activity they are undertaking. Project due diligence conducted with the use of recommended tools for assessing risks and impacts (e.g., risk assessments, stakeholder analysis, hazard analysis and social and environmental impact assessments) should – **if conducted diligently and if appropriate systems and controls are established to mitigate and manage the risks** – adequately prepare explorers to address their responsibilities to obey the law and international norms and prevent harm.

**Related e3 Plus Guidance**

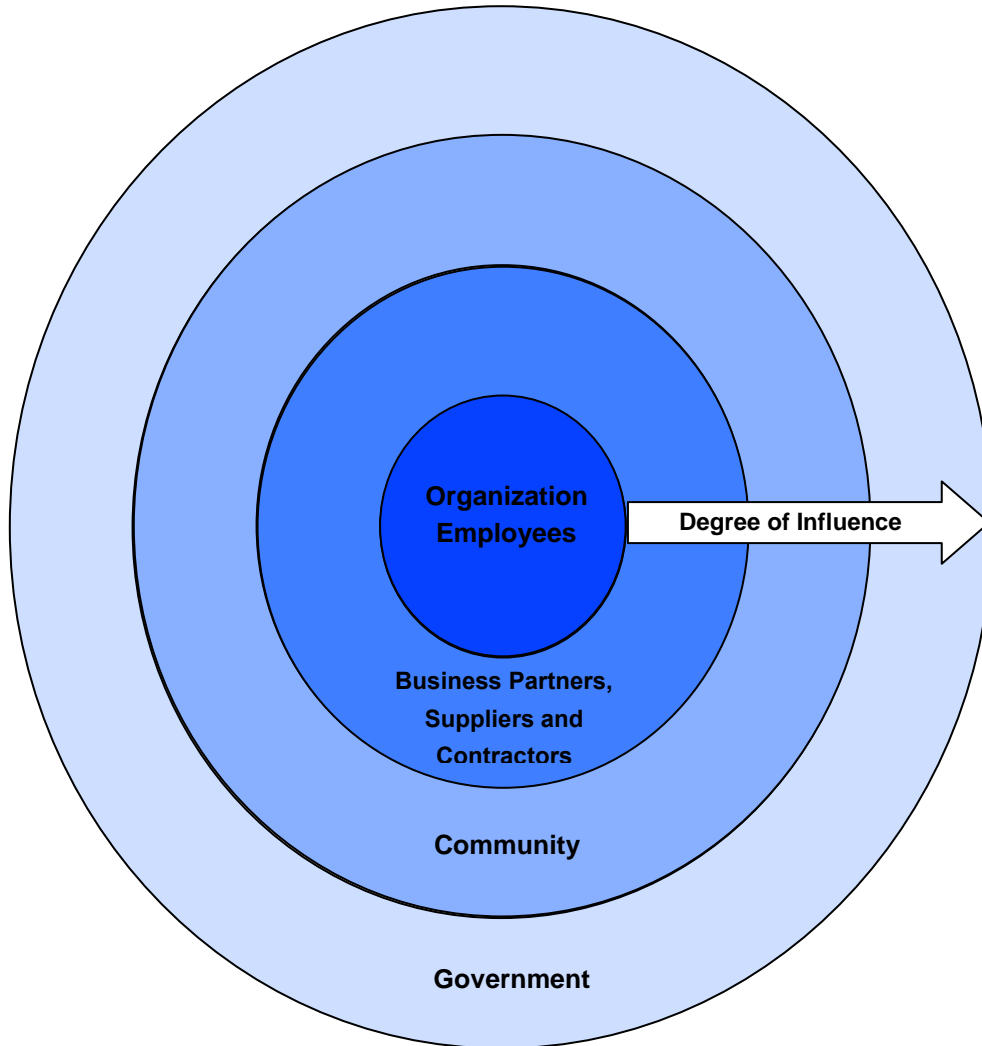
[Project Due Diligence](#)

**6.3 How Do I Encourage Better Performance and Promote Good?**

**Key Reference Sources**

[Global Compact Sphere of Influence](#)

The United Nations Global Compact first introduced the concept of “sphere of influence”. The illustration below shows a series of spheres of declining influence, starting at the centre with the workplace – where companies have the greatest influence – and moving outward to government – where presumably companies have the least influence. The assumption underlying the concept of sphere of influence is that the extent of a company’s responsibility is commensurate with the extent of their influence.



**Figure 5:** Sphere of Influence

The concept of sphere of influence is useful both as a visual model and as a model for explorers, to help them think more broadly about their responsibilities and help them map the scope of opportunities to make the greatest positive impact. This is particularly true in relation to understanding how they can promote or encourage

others to act in a responsible manner

However, the concept of sphere of influence should not be used to determine the scope of responsibility to prevent harm since: (a) it does not differentiate between stakeholders it impacts (e.g., communities) and stakeholders it can influence (e.g., suppliers); (b) it incorrectly suggests that a company is responsible just because it does have influence with them; and (c) it incorrectly suggests that a company is not responsible if the company has little influence over a stakeholder (e.g., a company has little influence over government security forces, but if they attack nearby communities to protect company operations, the company is obligated to act).

The concept of sphere of influence, taken together with the concept of due diligence, can help explorers determine to what extent they can or should take steps to improve their performance. For example, in the case where state security forces are causing harm to villagers when protecting the company's operations, there is a causal connection and an obligation to prevent and redress the harm. In a situation where there are known human rights abuses by state forces in the country in which an explorer is operating, but they are not in any way related to the company's operations, there is no causal connection and no obligation to act. However, the company may choose to demonstrate leadership and through public advocacy and dialogue try to discourage such actions. Additional information on public advocacy and government capacity-building is in the Community Development section.

In circumstances not directly related to preventing harm, there is more discretion on what explorers should and can do. Explorers are not expected to be ambassadors of goodwill on all causes, nor to take on sole responsibility for influencing change. However, as part of their community development programs, explorers should set priorities for areas where they will use their leadership and work with others to influence positive change.

### **6.3.1 Recommended Practices**

Explorers should:

- Understand their sphere of influence
- Understand the difference between when they should exert influence as corporate citizens to help those within their sphere of influence to improve their performance and when there is a positive duty to prevent harm that is connected to their own activities and operations
- Establish processes to conduct investigative due diligence of those actors within their sphere of influence that are connected to their operations and that have the potential to cause harm (e.g., contractors, agents, security forces, joint venture partners), before they enter into a business relationship with them
- Maintain controls to address potential problems that could arise during the course of those relationships



### 6.4 What Is My Responsibility for Business Relationships?

A contractor that has poor safety standards, an agent who bribes a government official, an operating partner who violates environmental laws or ignores the rights of indigenous people, or a supplier that uses child labour: all of these represent ways in which your company, by virtue of its relationships, might contribute to, and be liable for, the impacts and abuses caused by others. The examples also illustrate how a company may be exposed to potential financial, reputational and legal risks as a result of the social and environmental performance of partners, contractors, suppliers, agents and others who conduct work on your behalf or interest.

Explorers need to understand and take steps to control the social and environmental risks they may be inheriting by virtue of their business relationships. To do this requires paying attention to business relationship risks at all phases of exploration development and business relationship decisions, from initial screening and qualification of business, through to potential termination of the relationship.

Processes to manage business relationship risks need not be complex or cumbersome. However, they do require ongoing vigilance. Programs cannot be managed from head office. They require a solid understanding of the local context and trained staff that understand the risks and the warning signs. The level of rigour required should always be determined by the risk. In most cases, simple due diligence screening of suppliers and partners and regular project management oversight will do the job. However, in conflict zones, where security personnel are involved, in areas where there is institutionalized corruption, or where there is a high degree of community concern, a greater degree of care must be applied. By implementing some standard processes that are applied across all projects, explorers do not have to scramble to respond to problematic situations when they do arise.

If the situation has the potential to result in the explorers' complicity in violations of human rights, or actions that have significant negative social or environmental consequences, then explorers need to reconsider their presence in that area.

#### 6.4.1 Recommended Practices

- Establish social and environmental standards of performance and/or a Code of Conduct that you expect partners and suppliers to adhere to; include provisions in contractual agreements that reflect these expectations.
- Establish a due diligence screening process for all business relationships by developing a screening checklist. At a minimum, explorers should collect information for a due diligence review that will enable them to evaluate suppliers and partners based on their:
  - track record related to social and environmental performance; and
  - current ability to meet social and environmental standards of performance and/or Code of Conduct
- Select and retain suppliers based on their agreement and ability to meet these

#### Key Terms

**supplier** is a company or individual that provides goods and services and is independently owned and managed (includes agents and contractors)

**partner** is a party involved in a voluntary and collaborative relationship between more than one party, in which all participants agree to work together to achieve a common purpose or to undertake a specific task. Partners agree to share risks, responsibilities, resources, competencies and benefits

#### Related e3 Plus Guidance

[Boundaries of Responsibility](#)

[Project Due Diligence](#)

[Grievance and Complaints Mechanisms](#)

[Community Development](#)

#### Key Reference Sources

##### Sample Policies

[Barrick Gold](#), Supplier Code of Ethics

[Business and Anti-Corruption Portal](#).<sup>20</sup>

<sup>20</sup> *The Business Anti-Corruption Portal is an information source for small and medium sized companies operating in emerging markets and developing countries. The portal has examples of procedures and checklists related to due*



standards

- Work collaboratively with suppliers and partners to encourage compliance with defined performance standards. This might include:
  - mentoring; providing advice and suggestions for how they might improve performance;
  - providing training in key areas, including human rights, environment, health and safety;
  - sharing resources and tools developed for your operations and helping them build capacity within their organizations; and
  - establishing plans that outline areas of performance improvement
- Train staff at the local level to work with suppliers and partners to achieve policy objectives, including local social and environmental issues
- Negotiate fair contract terms. Suppliers should not have to exclusively shoulder the financial burden of higher standards
- Work collaboratively with other explorers and business enterprises in the same location. Collaborative efforts are an effective way to leverage the work of each individual company or organization to raise standards. This can prevent partners and suppliers from having to shoulder the burden of having to adhere to multiple performance standards and codes of conduct, due diligence investigations and monitoring. It can also help to buffer explorers from facing labour shortages because their standards exceed the local norms, or because of poaching by other organizations. This will also prevent inconsistencies in expectations
- Take reasonable steps to monitor compliance with standards of performance. This need not involve onerous formal audits, but rather simply training company personnel to be vigilant in their observations of suppliers and understand the warning signs that may be indicative of problem areas may be sufficient
- Establish a grievance mechanism to receive, investigate and respond to complaints related to performance of suppliers and partners

### 6.5 What Should I Disclose?

Most explorers are familiar with the concept of materiality as it relates to timely disclosure of material information concerning their business and affairs for the purposes of securities law. Material information in this context is any information relating to the business and affairs of a company that affects, or could affect, the market price or value of any of the company's listed securities.

The concept of materiality as it relates to transparency in a company's social and environmental performance is similar. Their purpose is to protect the reputation and integrity of the company, by ensuring that their stakeholders (e.g., shareholders, investors, employees, members of the local community, contractors, government agencies within their boundaries of responsibility) have information that enables them to make coherent decisions and take planned and timely action relevant to their interests.

Transparency and disclosure are directly linked to accountability. Companies should be accountable to their stakeholders for the decisions and performance that affect them. The think tank [AccountAbility](#) has identified

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*diligence of suppliers and agents, although these are geared to anti-corruption they can provide explorers with excellent templates for due diligence review for all aspects of social and environmental performance.*

five tests to determine whether information related to aspects of social and environmental performance is material and should be disclosed. Information should be disclosed if:

- 1) It has short-term, direct financial impact (e.g., significant environmental impacts that require remediation or compensation, or impede the development of a project)
- 2) It relates to a strategic commitment made by the company (e.g., a commitment made in their human rights policy)
- 3) It is of relevance to stakeholders, in terms of likely impact on their decisions and behaviour
- 4) A company's peers are deeming certain issues and aspects of performance to be of material importance (e.g., where industry peers report or disclose issues related to private security forces)
- 5) It relates to regulatory or international social norms of behaviour

### **6.5.1 Recommended Practices**

Explorers should:

- Adopt a risk-based analysis to determine what should be disclosed. This could be based on the first three tests proposed by AccountAbility that relate to risk: financial risks, impacts on stakeholders, and reputational risk
- Not take policy commitments lightly; if you commit to it, you should be prepared to account for your performance in meeting that commitment
- Understand the link between accountability and transparency. If you made a commitment, if a stakeholder is impacted by your decisions and actions, if your performance relates to a legal obligation or an obligation related to international norms of behaviour, you have a responsibility to disclose

Take into account industry practice, not only in terms of defining a standard of reasonable care, but also in terms of the type of information that should be disclosed

## 7.0 Human Rights – Introduction

The following sections introduce human rights, set out why human rights are relevant to explorers and describe what explorers can do to respect and promote human rights. The human rights guidance in this section should be read in conjunction with the guidance provided on governance and management processes; the two sets of guidance work together.

The guidance for the Human Rights section provides background into the issues and the specific actions that explorers should take to address those issues, in order to respect human rights. The guidance on management process provides direction on how explorers can develop the organizational capacity to address specific actions.

The table below summarizes the recommended practices that explorers should implement to respect and promote human rights. In the right hand column below, you will find links to the related management process guidance. In addition, as you read through each of the subject areas under Human Rights, you will also find links to additional information sources that explorers can use to help develop and implement these practices.

### 7.1 Summary of Recommended Practices

- Establish a policy to support human rights.
- Establish a management commitment and identify management oversight for policy implementation and compliance
- Implement the human rights policy throughout all operations worldwide
- Communicate the human rights policy to employees and contractors and train employees and contractors on the policy
- Raise internal awareness about human rights
- Train staff and contractors on human rights risks identified during project due diligence
- Require that contractors and joint venture partners follow the principles and commitments in the policy
- Take reasonable steps to review human rights practices of contractors, joint venture partners, suppliers and others with whom the company will establish key business relationships
- Conduct human rights risk assessments as part of project due diligence for new exploration activities and identify the potential – direct and indirect, intentional or otherwise – to impact on human rights
- Review risk assessments regularly and update them as you proceed through different stages of exploration
- Establish operating procedures to address human rights risks
- Monitor compliance and performance with the policy

### Related e3 Plus Guidance

[Developing and Communicating Policies](#)

[Training and Awareness](#)

[Sphere of Influence - Relationships with Contractors and Suppliers](#)

[Project Due Diligence and Risk Assessment](#)

[Contractor Due Diligence](#)

[Operational Controls](#)

[Monitoring and Measurement](#)

[Internal Review](#)

[Performance Reporting](#)

- Periodically verify that the processes, actions and decisions taken by the organization are consistent with the policy commitments to human rights
- Report performance

## 7.2 What Are Human Rights?

Human rights are basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though they were not a human being. Human rights are:

- **Inherent:** They apply to all persons by virtue of the fact that they are human beings
- **Universal:** They apply to every person, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Every person is entitled to human rights without discrimination
- **Inalienable:** A person cannot lose these rights, be deprived of them or consent to giving them up any more than they can cease to be a human being
- **Indivisible:** They are of equal importance; one right cannot be denied because it is less important than another
- **Interdependent:** They are part of a mutually supporting framework. For example, freedom of speech can directly affect your ability to associate with others and seek decent living and working conditions

## 7.3 What Are Universal Human Rights?

Universal human rights are rights recognized in international human rights law. International treaties, conventions and customary law are the core of international human rights law. Other instruments adopted at the international level (e.g., declarations, principles, guidelines, standard rules and recommendations) have no binding legal effect, but have moral force and provide practical guidance to the interpretation, understanding, implementation and development of international human rights law.

## 7.4 International Human Rights Instruments

The Universal Declaration of Human Rights (UDHR) is the foundation document for universal human rights. The UDHR was proclaimed by the United Nations (U.N.) General Assembly on 10 December 1948, and it was the first time that countries agreed on a comprehensive statement of human rights. The UDHR is an aspirational statement of principles. It is not a treaty, so it does not directly create legal obligations. However, it has become binding as a part of customary international law.

The UDHR consists of 30 different rights and freedoms, covering civil, political, economic and cultural issues that have had a profound influence on the development of international human rights law. These rights have been subsequently elaborated upon in treaties and other instruments adopted by the U.N.

A diverse set of over 80 instruments (covenants, conventions, declarations, principles and rules) developed by the U.N. General Assembly make up the framework of international human rights law.

In addition to the international instruments developed under the auspices of the U.N.

### Key Terms

**convention** (sometimes called a covenant) is a binding treaty, coming into force upon ratification by a certain number of states

**declaration** is a statement of principles and aspirations that is not legally binding but carries moral weight, because it is adopted by the international community

**customary law** is unwritten law that exists when there is evidence of widespread and consistent practice among states, and there is a genuine belief among states that such practice is legally binding

**e3 Plus: A Framework for Responsible Exploration** is the expanded version of what was originally e3, that now includes not only principles and guidance related to environmental stewardship, but also to social responsibility, as well as health and safety

General Assembly, there are a number of conventions developed by the International Labour Organization (ILO). The ILO was founded in 1919; it is a tripartite U.N. agency that brings together governments, employers and workers to promote social justice and internationally recognized human and labour rights. The ILO formulates international labour standards in the form of Conventions and Recommendations, setting minimum standards of basic labour rights: freedom of association, the right to organize, collective bargaining, the abolition of forced labour, equality of opportunity and treatment and other standards regulating conditions across the entire spectrum of work-related issues.

Human rights are also enshrined many countries' domestic laws – such as the Canadian Charter of Rights and Freedoms – and in regional international agreements – such as the European Convention on Human Rights, the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Cairo Declaration of Human Rights in Islam.

### **Main International Instruments**

#### **International Bill of Rights**

[Universal Declaration of Human Rights \(UDHR\), 1948](#)

[Covenant on Civil and Political Rights, 1966](#)

[International Covenant on Economic, Social and Cultural Rights, 1966](#)

#### **Core International Human Rights Instruments**

[International Convention on the Elimination of All Forms of Racial Discrimination, 1965](#)

[Convention on the Elimination of All Forms of Discrimination against Women, 1979](#)

[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984](#)

[Convention on the Rights of the Child, 1989](#)

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990](#)

[International Convention for the Protection of All Persons from Enforced Disappearance](#)

[Convention on the Rights of Persons with Disabilities](#)

#### **Universal Human Rights Instruments**

[Declaration on the Rights of Indigenous Peoples, 2007](#)

[Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992](#)

[Minimum Age Convention, 1973 \(No. 138\)](#)

[Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998](#)

[Indigenous and Tribal Peoples Convention, 1989 \(No. 169\)](#)

### 7.5 What Is the Scope of Responsibility for Human Rights?

While the primary responsibility for human rights lies with governments, companies are not exempt from responsibility. The preamble of the Universal Declaration of Human Rights (UDHR) calls on “every individual and every organ of society” to promote and respect human rights.

All companies have an impact on human rights, both in their relationships with their employees, and in their relationship with the wider society in which they **operate**.

A recent survey of alleged corporate-related human rights abuses in a sample of 320 cases posted on the Business and Human Rights Resource Center website from February 2005 to December 2007 indicates that:<sup>21</sup>

- companies are alleged to directly cause the abuse in 60 per cent of the cases;
- in the 40 per cent of cases that alleged indirect company involvement, 18 per cent involved relationships with suppliers alleged to abuse human rights; 23 per cent connected firms to the abuse of various other third parties, including states and other business;
- the extractive sector had the largest number of allegations of any industry sector (28 per cent);
- nearly 50 per cent of direct cases of alleged abuse affected communities. The majority of these cases involved environmental harms that were alleged to negatively affect the livelihood and health of local populations. Impacts on water supplies were raised in 40 per cent of these cases. Additionally, numerous firms were criticized for not conducting impact assessments, while others were alleged to poorly carry out the assessment process. Extractive sector firms were also cited here for alleged impacts on the rights of indigenous communities

Companies that fail to respect human rights expose themselves to a wide range of risks, including legal action, negative media coverage, targeted NGO campaigns, protests, boycotts and shareholder actions. All of these risks have reputational and financial costs. On the other hand, companies that pay attention to human rights and integrate them into their business practices gain commercial benefits beyond mere risk avoidance. For companies in the extractive sector, the greatest commercial benefit is a more secure social license to operate. Continued access to natural resources is predicated on the support of local communities.

### 7.6 The Duty To Respect Human Rights

In addition to compliance with national laws, your baseline responsibility as an exploration company is to respect human rights. Respect for universal human rights is broader in scope than the responsibility to comply with national laws. The broader scope of responsibility to respect human rights is defined by social expectations.

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<sup>21</sup> *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including The Right To Development Report of the Special Representative of the Secretary-General on the issue of human rights and trans-national corporations and other business enterprises, Addendum 2, May 23, 2008 Human Rights Council.*

### Key Terms

**universal human rights** are rights recognized in international human rights law

**social license to operate** is the acceptance by society of company activities or operations without social opposition or protest. This is largely determined by the company's overall ability to meet stakeholder expectations for environmental and social performance

Respect for human rights requires a company to refrain from interfering – directly or indirectly – interfering with universally recognized human rights.

The human rights guidance provided in this section is intended to cover the broad landscape of possible human rights risks and circumstances that explorers may encounter. The boundaries of an explorer's responsibility in any given circumstance will depend on the risk of harm and the degree of control and influence that they can exercise. For the great majority of exploration activities, the risks to human rights will be low; commensurately so too, will be the responsibility of explorers to act. The primary tool available to explorers to help them determine the scope of their responsibilities to respect human rights in any given circumstance is to undertake appropriate project due diligence prior to commencing any new exploration activity. Explorers should follow the e3 Plus guidance provided under project due diligence and risk assessment.

### **7.7 Domestic Laws and International Human Rights Standards**

Where domestic laws exist that conform to international human rights standards, these should be the benchmark standards for explorers to follow. Rarely will explorers encounter a situation where there are no domestic laws that conform to international human rights standards. However, there may be some aspects of international human rights that are not covered by domestic laws, or more typically are not sufficiently protected by domestic law. In these cases, explorers should rely on domestic laws to the extent possible and use international standards as guideposts for behaviour.

In rare cases, national laws may actually conflict or prohibit explorers from respecting international human rights standards. In these cases, explorers should, to the best of their ability, strive to respect international standards in their operations and, if possible, try to be a positive influence of change. However, if the situation has the potential to result in the explorers complicity in gross violations of human rights or actions that have significant negative social or environmental consequences, then explorers need to reconsider their presence in that jurisdiction.



### 7.8 What is Complicity?

Complicity occurs when a company is associated with, participates in, or acquiesces to a human rights violation committed by someone else. Complicity is differentiated from a direct abuse, where the company intentionally violates human rights on their own (e.g., by engaging in discriminatory work practices).

Complicity is not used here in the strict legal sense of the criminal accomplice, but instead in the broader context of business and human rights, to capture the fact that companies can become implicated in human rights abuses of others in a manner that brings with it responsibility and blame. The boundaries of what constitutes corporate complicity in this broader context are not clearly drawn. Therefore, it is important to understand that complicity can occur in different forms.

**Direct complicity** is at one end of the spectrum. This is where the company intentionally promotes, participates in, or assists in the human rights abuse. As an example: A company promotes the forced relocation of local people by the state or relies on forced labour supplied by another party. Where there is direct complicity, the company has a clear responsibility to cease the practice immediately and ameliorate the harm.

**Indirect complicity** is further along the spectrum. This is where the company does not directly participate in, but benefits from, an abuse committed by someone else. The most common example of indirect complicity is through the supply chain, where companies contract for goods or service with other companies that violate human rights in their operations. As an example: The use of contracted private security forces that use excessive force to protect the company's facilities or personnel, or the use of sub-contractors that engage in discriminatory work practices. In these cases, the company also has a responsibility, but the action that should be taken to address the responsibility should be proportionate to the nature of the link between the company and the violations.

**Silent complicity** is at the other end of the spectrum. This is where a company has no direct or indirect involvement in the human rights violations, but is silent or fails to object to systematic or continuous human rights violations. This is the most difficult situation in which to determine the scope of a company's responsibility, since the company is not facilitating the violations in any way. Is there a moral obligation to act? Does the responsibility increase if the company indirectly benefits in some way? As an example: A company operating in a country where worker rights are repressed may indirectly receive a benefit through low wages.

How do explorers determine the scope of their responsibility to avoid complicity or take action in the face of human rights abuses?

An explorer's responsibility will vary depending on factors such as the following:

- **If the company is in a position where they enable, facilitate, or exacerbate the abuse.** The company's degree of responsibility will be commensurate to the degree to which they enable the abuse
- **The severity or character of the abuse.** Where the abuse is so severe that it violates a fundamental human right, the company has a responsibility to act;
- **The proximity of their relationship to the perpetrator and the victims.** The closer a company is geographically and in relationship to those who

### Key Terms

**complicity** is the act of participating or associating in, or acquiescing to, a human rights violation or ethical misconduct committed by someone else

carry out the human rights abuses – or to those who suffer the abuses – the greater the likelihood that the company will face allegations of complicity and the greater their responsibility to act

- **Their knowledge and awareness.** Where the risk of harm is known or foreseeable, the company has a responsibility to act
- **The extent of benefit from the human rights abuse.** The greater the benefit a company derives as a consequence of the abuse, the greater the risk of complicity and the greater the responsibility for the company to act

Below, we look at each of these factors in a little more detail.

### 7.8.1 To Enable, Facilitate or Exacerbate Human Rights Abuses

A company **enables** the abuse if the specific abuse would not have happened without the company’s contribution. By some action or act of omission, the company has inserted itself into the chain of causation that “enables” another to commit the human rights abuses. There are always many causes that contribute to a particular outcome, but in this situation, the company’s conduct is a necessary ingredient, although not necessarily the only factor in the perpetration of the abuse. As an example: Community protesters around the site of an operation might be beaten by private security personnel hired by the company to provide security services.

A company **facilitates** an abuse if the abuse would still have occurred without the presence of the company, but the company’s contribution made it easier to carry out the abuse or changes the way in which the abuse is carried out.

A company **exacerbates** a situation if the company’s conduct or presence increases the range of human rights abuses committed by the principal perpetrator, the number of victims, or the severity of the harm suffered by the victims. As an example: Through a runway built to support exploration activity, government forces gain access to an area and engage in human rights violations.

### 7.8.2 Proximity

How close is the company to the violation? Geographical proximity means that a company may have more knowledge and more opportunity to influence events. The closer a company’s relationship to the perpetrator, the more likely the company is to have the power, influence, authority, or opportunity to have a sufficient impact on the conduct of the perpetrator. The closer a company’s relationship to the person harmed, the more compelling the case that the company should have foreseen the risk that the company’s conduct could harm that person, and therefore the higher the requirements on the company to avoid or limit harm.

#### Questions to consider:

##### How close is the company to the perpetrator?

- Is there a legal relationship between the company and the third party perpetrator (e.g., joint venture, partnership, subsidiary)?

##### How close is the company to the victim?

- Are the victims employees, employees of subcontractors, or members of the community around the facility?

- Is there a commercial relationship between the company and the third party perpetrator (contractor, supplier)?
- Does the company control the perpetrator in any way?
- Does the company have the greater bargaining power in the relationship?

### 7.8.3 Knowledge and Awareness

What does the company know about the human rights practices of the persons and organizations with whom they are involved and, perhaps even more importantly, what should they know? The critical question is, how foreseeable is the risk of harm? Foreseeability is based on whether a responsible company in your situation would be aware of the potential risk of harm, given the surrounding objective circumstances. Essentially this is why “due diligence” and “risk assessment” are standard management practices that explorers should adopt.

#### Questions to consider:

- Did the company make reasonable investigations and inquiries? Did they conduct due diligence? Did they assess the risks?
- How long has the abuse been ongoing? How long has the relationship with the perpetrator been in place? The longer the duration, the greater the likelihood that the company knew or should have known, and hence the greater is the likelihood of the company being accused of complicity
- Did outside sources – such as NGO’s, local communities or others – bring to the attention of the company the fact that their business activities could contribute to human rights abuses, or that the organization or person with which they are involved has a record of human rights abuses?
- Was there publicly available information that the company could access about the human rights record of those in power in areas where they operate – or are planning to operate – and about the risks of doing business with certain government agencies, armed opposition groups, or other companies? Sometimes, there is so much information publicly available that it is implausible for a company not to know, or at least suspect, that there is a risk
- Finally, were there unusual circumstances that should have raised questions about the organization the company is involved with, or about the business transaction? As an example: A security company that repeatedly seeks to obtain information about the ethnicity or political affiliation of company employees may have more in mind than protecting the company’s personnel and assets

#### 7.8.4 Benefit

Any benefit the company derives as a consequence of the abuse raises the risk of complicity. As examples: A state evicting people from their agricultural land, so that the company can prospect for minerals, creates a benefit for the company. A state that passes legislation to ban unions, so that companies can operate in free trade zones at lower costs, also creates a benefit for the company. In such cases, the company is not actively assisting the state, nor are they in partnership with the state, but the company stands to benefit from the state's actions.

#### 7.9 Avoiding Complicity

Any of the warning signs described above would lead prudent explorers to take measures to ensure that they are not enabling, facilitating, or exacerbating human rights abuses. The recommended practices under the various human rights topics following this section will help explorers to avoid situations where their duty to respect human rights may be compromised.

Putting in place processes to avoid complicity in human rights abuses and prevent harm is the best way to ensure that your organization respects human rights. However, if you suspect that a human rights abuse has occurred (or may occur) and that your organization may be somehow associated with the person or organization that committed (or is likely to commit) the abuse, what do you do? Here are some options:

- **Respond immediately, but get the facts and consider your response carefully before you react.** Make sure you fully understand the situation and the relationships involved. Identify how you can best intervene to prevent harm, or mitigate the consequences of harm. As an example: If you are in a position of control or influence - such as having a contractual relationship with the organization or person suspected of committing the abuse - you will have more leverage to prevent the abuse and the harm. You also need to consider the impact your intervention may have on the victims of the abuse. Will it put them in a better or worse position? As an example: If you suspect a contractor of using child labour, your intervention may result in having the children dismissed, possibly jeopardizing their only source of livelihood. Consider as well the severity of the consequences, if you act or fail to act
- **Seek advice.** Get the advice of experts - this can include legal and consulting professionals, government agencies, United Nations agencies, or reputable NGO organizations with expertise in dealing with human rights issues. Seek out advisors that do not have entrenched positions and can help provide advice that takes into account project risks, but is motivated by how best to prevent harm to people and the environment. Advisors who are focused solely on damage control to your organization will not help you in the longer term
- **Get help.** In many cases, working in collaboration with other organizations - such as other companies, industry and non-governmental organizations - may be the most effective means to intervene. This is particularly the case when the perpetrator is a public agency or person

**7.10 Conditions of Work and Employment**

The Universal Declaration of Human Rights states every person has a right to:

- just and favourable conditions of work (Article 23[1]);
- just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity (Article 23[3]); and
- rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24[4])

These rights are broadly discussed under the title of “Conditions of Work and Employment” and are captured under the following three headings:

- 1) Wages and benefits (remuneration, holidays, sick leave, etc.)
- 2) Working time (hours of work per day and per week, overtime)
- 3) Workplace conditions (health and safety\* and workplace welfare)

*Please see e3 Plus Health and Safety information for issues and guidance related to workplace health and safety.*

In general, standards related to conditions of work – such as minimum wage, benefits, statutory holidays, hours of work – are set in national law. However, in some states these standards may not be in place or may not be adequate to meet basic rights. Therefore, explorers cannot rely solely on local legislation when determining their responsibilities in this area. Explorers should be guided by International Labour Standards. See Table 6 below for a summary of applicable ILO standards.

**Table 9: ILO Standards**

Work Condition	Requirement	ILO Convention
Hours of Work – Day	Maximum 10/day in commercial industries and 8/day in industrial occupations	C1 (1919) Article 2 C30 (1930) Articles 3 and 4
Hours of Work – Week	Maximum 48 hours <sup>22</sup>	
Overtime	Must be voluntary; should not be a regular practice	C1 (1919) Article 3 C30 (1930) Article 4
	Paid at a premium of not less than 1.25 time	
Weekly Rest Periods	24 consecutive hours for every 7 days of work	C106 (1957) Article 6 C14 (1921)
Holidays	14 days	C132 (1970)
Maternity Leave	Minimum 3 weeks per year	C183 (2000)

Notes: a) Mineral extraction is considered an industrial occupation C1 (1919) Article 1  
 b) Work may exceed 8 hours in any one day and 48 hours in any one week, if the average number of hours over a period of 3 weeks or less does not exceed 8 per day and 48 per week.

<sup>22</sup> Consult national law for applicable exceptions.

**Risk For Explorers**

- Inadequate local legislation related to conditions of work
- Contractors or others performing work on their behalf may not comply with local legislation or minimum international standards

**Key Terms**

**hours of work** means the time during which the persons employed are at the disposal of the employer; it does not include rest periods during which the persons employed are not at the disposal of the employer

**living wage** is a wage that enables them to meet the basic needs of themselves and their dependants, as well as provide some disposable income

**Main International Instruments**

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Articles 23 and 24

[ILO Declaration on Fundamental Principles and Rights at Work, 1998](#)

[ILO Minimum Wage Fixing Convention, 1970 \(No. 131\)](#), Article 3

[ILO Social Policy \(Basic Aims and Standards\) Convention, 1962 \(No. 117\)](#), Article 5

[Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977](#), Article 34

### 7.10.1 Recommended Practices

- Establish a policy recognizing the right of workers to decent work conditions. Make sure the policy applies to suppliers and sub-contractors
- Commit to zero tolerance of breaches of any of the core labour standards
- Conduct project due diligence to understand the issues related to working conditions and their impact on how project work is managed and contracted. This should include:
  - understanding the country, politically, socially and economically;
  - becoming informed of national laws related to conditions of work and employment – in particular, hours of work, minimum wage, holidays and benefits;
  - determining whether national laws are adequate to meet basic rights and needs of workers
- If national standards do not exist or do not meet international labour standards, explorers should follow international labour standards as the minimum standard for conditions of work
- Workers should be paid a living wage. Where there is no minimum wage, or where the minimum wage is not sufficient to meet basic needs, explorers should consult with members of the local community, other companies, local trade unions, NGOs, or state agencies to determine the proper standard of pay for the area. In establishing standards of pay, explorers should take care that their rates are not so far in excess of local standards that they have a disrupting influence on the local economy. Since there are no international standards for sick leave, this also should be determined through similar consultation
- In locations where national labour standards fall below international standards, or where national laws are not followed or well enforced, take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf, to ascertain their practices related to conditions of work. This should include:
  - discussing labour practices upfront, when negotiating contracts with contractors;
  - understanding the culture of the organization and the country concerned;
  - looking into the background of the contractor through inquiry with local communities, government agencies, labour organizations and reputable NGOs
- Negotiate prices and contract terms with contractors and suppliers that enable them, to pay their employees a living wage
- Deductions from wages for disciplinary measures should not be allowed and deductions not required by national law should only be made with employee consent

### Related e3 Plus Guidance

Defining the Boundaries of Your Responsibility

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related human rights legislation maintained by the ILO

[TRAVAIL Database of conditions work by country](#)

### Key Reference Sources

[ILO Conditions of Work and Employment Programme](#)



### 7.11 Discrimination in Employment

Discrimination in employment is a violation of fundamental human rights. It entails treating people differently because of characteristics that are not related to merit or the requirements of the job. These characteristics include race, colour, sex, religion, political opinion, national extraction or social origin, physical or mental disability, sexual orientation, age or HIV/AIDS.

Discrimination in employment takes many forms and is manifested in a variety of different ways, including:

- restricting access to employment, particular occupations, or training;
- discriminatory terms and conditions of the employment – such as remuneration, hours of work and rest, paid holidays, maternity leave, security of tenure, advancement, social security, and occupational health and safety; and
- harassment and victimization in the workplace.

Different treatment based on individual merit, productivity, job demands, or special needs of the individual (for example people of disabilities) is not discrimination. Most countries have laws against discrimination in employment. Explorers need to be aware of and respect all relevant local and national laws pertaining to non-discrimination in the country of operation.

However, like many other areas of human rights, non-discrimination laws in some countries may be weak, poorly enforced, or may only cover a limited number of categories. In these cases, explorers should set their standards of behaviour based on international standards and industry best practices.

In most cases, discrimination in employment occurs not because of deliberate intent by the employer, but rather as a result of prevailing cultural, social, or economic norms. Discrimination in employment also occurs as a result of the implementation of policies that appear neutral in their intent, but have a disproportionate impact on one group as compared to another. Some examples include:

- dress policies, timing of breaks, and days of rest can have a negative effect on workers because of their religion;
- standards of physical fitness for specific jobs may prevent people with disabilities or health problems from employment;
- language used in posting job positions or stringent qualification standards may exclude members from particular groups; and
- policies related to flexibility in hours of work may exclude people (usually women) who need to care for children or elderly relatives.

Another way in which discrimination enters employment is through the prejudices of workers themselves. Where employers do not take action to address embedded cultural and social prejudices these can manifest themselves in harassment and violence in the workplace.

### Risk for Explorers

- Institutionalized discrimination in the local area of operation that spills over into tensions and discrimination in the workplace
- Social and cultural norms that make it difficult to implement policies related to anti-discrimination
- Work performed on your behalf by contractors or others who engage in discriminatory work practices

### Key Terms

**discrimination in employment** is any distinction, exclusion, or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation", and is made on the basis of "race, colour, sex, religion, political opinion, national extraction, or social origin";<sup>23</sup> discrimination may also occur on the basis of physical or mental disability, sexual orientation, age or HIV/AIDS

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948, Article 20](#)

[ILO Declaration on Fundamental Principles and Rights at Work, 1998](#)

[Convention on the Elimination of All Forms of Discrimination against Women, 1979](#)

[Equal Remuneration Convention, 1951 \(No. 100\)](#)

[Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#)

[Workers with Family Responsibilities Convention, 1981 \(No.156\)](#)

<sup>23</sup> ILO Convention C111 Discrimination (Employment and Occupation) Convention, 1958

### 7.11.1 Recommended Practices

- Establish a policy prohibiting discrimination, harassment and violence in the workplace. Make sure the policy applies to suppliers and sub-contractors.
- Review recruitment practices to ensure that they do not directly or indirectly discriminate against particular groups. Establish recruitment practices that are competence based and train managers in non-discriminatory recruitment. Let marginalized groups know about your recruitment programs.
- Reflect the diversity of the local area in the composition of the workforce, to the extent possible.
- Communicate policies to employees and contractors and ensure that your managers and workforce know the standards of behaviour expected of them.
- Communicate the benefits of non-discrimination throughout the organization and to contractors and suppliers.
- Establish a grievance mechanism to receive, investigate and respond to complaints of discrimination, workplace harassment, threats and violence.
- Immediately address tensions (e.g., racial tensions) in the workplace which can later lead to abusive, harassing, or violent conduct.
- Where possible and appropriate:
  - Encourage flexible working hours;
  - Adjust workplace practices to facilitate religious and cultural practices;
  - Examine ways in which jobs can be readjusted to accommodate persons with disabilities or members of marginalized communities;
  - Provide training to potential employees to improve their chances of employment; and
  - Work with government, trade unions and other stakeholders to develop the potential of underrepresented groups.
- Conduct project due diligence to understand the issues related to discrimination and their impact on how project work is managed and contracted. This should include:
  - understanding the country, politically, socially and economically;
  - becoming informed of national laws related to discrimination in employment;
  - determining whether national laws cover all forms of discrimination;
  - understanding the diversity of the local community and the composition of local labor market.
- If national standards do not exist, or do not cover all forms of discrimination, explorers should follow international labour standards or good industry practice.
- Take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf, to ascertain their practices related to discrimination. This should include:
  - discussing labour practices upfront, when negotiating contracts with

#### Related e3 Plus Guidance

Defining the Boundaries of Your Responsibility

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

#### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related rights legislation maintained by human the ILO

[ILOLEX database of international labour standards](#)

#### Key Reference Sources

[IFC Good Practice Note Non-Discrimination and Equal Opportunity](#)



contractors;

- understanding the culture of the organization and the country concerned;
- looking into the background of the contractor, through inquiry with local communities, government agencies, labour organizations and reputable NGOs.

### 7.12 Freedom of Association

**“Everyone has the right to freedom of peaceful assembly and association.”**

Article 20 of the Universal Declaration of Human Rights

The right to freedom of association is the right of groups to organize to address issues of common concern. Freedom of association is closely related to freedom of expression and it is a fundamental political right and critical to an open society. Without freedom of association, collective civic action to influence leaders and governments is not possible and workers cannot organize to secure their economic and social welfare.

In this section, we discuss freedom of association as it relates to the rights of workers under international labour standards to organize and collectively bargain. Freedom of association and the right to organize can be summarized as the right of workers to establish and to join organizations of their own choosing, without any prior authorization or interference. The inter-related right to bargain collectively means that worker organizations and their members are free from discrimination and allowed to function independently, without interference for the purpose of advancing and protecting their employment interests.

What do these rights mean in terms of the responsibility of explorers as employers? Respect for freedom of association requires that employers:

- allow employees to exercise their rights to organize without fear of discrimination or retaliation;
- not discriminate against or penalize worker representatives because of their status or activities;
- bargain collectively and in good faith with authorized worker’s representatives on the terms and conditions of employment;
- respect the rights of workers’ organizations and provide them access to information and resources to carry out their activities;
- not interfere in, or try to control, the formation, constitution, administration, elections, or other activities of workers’ organizations;
- allow worker representatives reasonable access to the company documentation needed to fulfill their duties, to negotiate with the company, and to ascertain the performance of the company regarding relevant matters;
- allow worker representatives sufficient access to the workforce to be able to properly communicate and consult with them on matters concerning their conditions of employment;
- allow workers’ organizations access to the workplace to apprise workers of the benefits of membership and to recruit; and
- refrain from trying to establish non-independent rival bodies such as “workers’ committees” in order to prevent or hinder free trade union organization.

### Risk for Explorers

- Explorers who respect the rights of workers to freedom of association in their workplace may find that their workers are subject to internal and external discrimination because of their activities and trade union membership and
- Work performed on your behalf by contractors or others who do not respect the rights of workers to organize.

### Key Terms

**freedom of association** is the right to convene with others, form associations and to organize actions

**trade union, labour union, workers’ organization** are organizations of employees, usually associated beyond the confines of one enterprise, established for protecting or improving, through collective action, the economic and social status of its members

**collective bargaining** is all negotiations which take place between one or more employers or employers’ organizations, on the one hand, and one or more workers’ organizations, on the other, for determining working conditions and terms of employment, or for regulating relations between employers and workers

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 20

[Freedom of Association and Protection of the Right to Organise Convention, 1948](#) (No. 87)

[Right to Organise and Collective Bargaining Convention, 1949](#) (No. 98)

[ILO Declaration on Fundamental Principles and Rights at Work, 1988](#)

### 7.12.1 Recommended Practices

- Establish a policy recognizing the rights of workers to freedom of association. Make sure the policy applies to suppliers and sub-contractors.
- Commit to zero tolerance of breaches of any of the core labour standards;
- Conduct project due diligence to understand the issues related to organized labour and their impact on how project work is managed and contracted. This should include:
  - understanding the country – politically, socially and economically; and
  - becoming informed of national laws related to worker rights to organize and collective bargaining.
- Take reasonable steps to conduct due diligence of contractors and others conducting work on your behalf to ascertain their practices related to labour rights. This should include:
  - discussing labour practices upfront, when negotiating contracts with contractors;
  - understanding the culture of the organization and the country concerned;
  - looking into the background of the contractor, through inquiry with local communities, government agencies, labour organizations and reputable NGOs.
- Train project management personnel regarding the rights of workers and the risks and opportunities identified during project due diligence.
- Take steps to protect the security of workers and workers’ organizations, where there is a risk of reprisal or discrimination.

### 7.13 Child Labour

According to the statistics given by the International Labor Organization (ILO) there are about 218 million children between the age of 5 and 17 working all over the world<sup>24</sup>. Children are entitled to the basic right of an education and must not be hired to work before completing their compulsory education. The ILO standards set the minimum age for entry into employment at 15.

Not all work done by children is child labour. The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity and that is harmful to physical and mental development. Whether “work” can be called child labour depends on the child’s age, the type of work, the hours of work and the working conditions.

School attendance and the age at which children can enter employment are defined by national law. This will vary depending on social norms and economic conditions. If an organization operates in a country where the age of entry into employment is higher than 15, the organization must follow national legislation. If the national standards fall below the minimum 15 years of age, the organization should follow ILO standards.

<sup>24</sup> Source: ILO. 2006. *World Report on Violence against Children*. Available online: <http://www.violencestudy.org/r229>

### Related e3 Plus Guidance

Defining the Boundaries of Your Responsibility

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

### Due Diligence Information Sources

[NATLEX](#), the database of national labour, social security and related human rights legislation maintained by the ILO

[ILOLEX database of international labour standards](#)

### Key Reference Sources

[Freedom of association and the effective recognition of the right to collective bargaining](#) – ILO website

[Global Compact Tools and Guidance Materials](#)

### Risk for Explorers

- Unknowingly hiring underage workers in locations where child labour is common
- Work performed on your behalf by contractors or others who use underage workers

### Key Terms

**child labour** is work that is mentally, physically, socially or morally dangerous and harmful to children and interferes with their schooling by:

- depriving them of the opportunity to attend school;
- obliging them to leave school prematurely; or
- requiring them to attempt to combine school attendance with

Governments in developing countries may, in rare circumstances, set the age for entry into employment at 14, but only when done in accordance with ILO Convention 138, and only after consultation with employers and workers' organizations. When relying on national legislation in such circumstances, the organization should check that national legislation is in compliance with ILO Convention 138.

These age restrictions do not apply to young workers enrolled in legitimate vocational training or technical education programs. Apprenticeship programs should:

- provide real educational benefit to the child;
- not interfere with the child's compulsory education;
- be of limited in duration; and
- be organized through a school programs or supervised by a government agency.

*Vocational training should not be used as a guise to exploit children by paying them less as trainees and providing little educational benefit.*

### 7.13.1 Recommended Practices

- Develop a policy prohibiting the use of child labour, in any form, across all of your operations and activities. Make sure the policy applies to suppliers and sub-contractors.
- Establish standards on the minimum age for employment, which complies with national laws, but are no less than ILO standards.
- Consider risks related to child labour when conducting project due diligence. This should include:
  - assessing the likelihood that the company (or its contractors) may be employing under age workers;
  - becoming informed of national laws related to child labour and education; and
  - understanding the local social and economic conditions and issues related to child labour.
- Raise awareness of staff to the child labour issues identified during the due diligence review.
- Take reasonable steps to confirm the age of candidates for employment. This may require ways of estimating age where documented identification is not available or reliable (e.g., judging age by height, asking questions that could help pinpoint the child's age). Staff should be made aware of typical ways in which identification documents may be falsified in the country of operation.
- Take into account how work may interfere with the education of children when hiring children under the age of 18.

excessively long and heavy work. (ILO)

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Articles 24 and 26

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Article 7

[Convention on the Rights of the Child, 1989](#)

[ILO Minimum Age Convention, 1973 \(C138\)](#)

[ILO Recommendation Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 \(C190\)](#)

### Related e3 Plus Guidance

[Defining the Boundaries of Your Responsibility](#)

[How to Develop a Policy](#)

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

### Due Diligence Information Sources

[The Country Risk Assessment \(CRA\) reports](#) (Human Rights and Business Project) – provide analysis of sensitive human rights issues in the country of operation, along with practical guidance on how to avoid engaging in human rights violations

[The State of the World's Human Rights](#) (Amnesty International) – human rights issues by country

[US State Department Country](#) – reports on human rights, published annually

### Key Reference Sources

- Find means to remedy situations if you become aware that you are employing children of school age. This might include offering to hire adult members of the family in their place or identifying ways to enable the child to achieve a basic education (e.g., an apprenticeship program or financial support).
- Conduct medical examinations of young workers to ensure their fitness for the form of employment they are to undertake.
- Define the work that your organization performs that should only be undertaken by a person 18 and older and train managers to be aware of the limitations of workers under the age of 18. This is intended to prevent exposure of workers under the age of 18 to tasks and working conditions that could be hazardous or harmful to their health, safety, or morals. Some of the working conditions that should be avoided by workers under the age of 18 are defined in ILO Recommendation 190. These include work that:
  - exposes them to psychological, emotional, or sexual abuse;
  - is underground, underwater, at dangerous heights, or in confined spaces;
  - involves dangerous machinery, equipment and tools, or requires lifting or transporting heavy loads;
  - exposes them to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and/or
  - involves long hours, night shifts, or places them in situations that require them to be unreasonably confined to the premises.

[ILO Website](#) – dedicated to child labour

[Eliminating Child Labour ILO Guides For Employers](#) (for purchase)

[IFC Good Practice Note In the Workplace and Supply Chain Addressing Child Labour](#)

[Global Compact Tools and Guidance Materials](#)

### 7.14 Forced Labour

**“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”**

Article 4 of the Universal Declaration of Human Rights

Forced or compulsory labour is a form of servitude. Essentially, forced labour is any situation where a person enters work or service against their freedom of choice, and cannot leave it without penalty or the threat of penalty.<sup>25</sup>

Forced labour is a criminal practice prohibited in both international law and most national legislation. According to ILO data, at least 12.3 million people are victims of forced labour worldwide, in industrialized as well as in developing countries.<sup>26</sup> Forced labour is typically regarded as an issue associated with the actions of repressive states; however, 9.8 million people in forced labour are exploited by private actors.<sup>27</sup> Through force, coercion and deception, forced labour victimizes the most vulnerable members of society: women, children, and migrant workers.<sup>28</sup> The ILO has identified the following forms of forced labour:

**Debt-induced forced labour, also widely known as “bonded labour or debt bondage”:** Workers take a loan or wage advance from an employer or labour recruiter, in exchange for labour by the worker or by family members. The terms of the loan are such that they trap workers into years of servitude.

**Prison labour:** Involuntary work performed by prisoners who have not been convicted in a court of law and whose work is not supervised by a public authority.

**Human trafficking:** Individuals are forced or tricked into going somewhere by someone who then sells them or forces them to work against their will. Human trafficking is often linked to organized crime.

**State or military compulsory work:** Civilians are forced or required by law to do work for government authorities or the military.

**Coercion in employment:** Work compelled under deception or coercion. Some examples of coercion include withholding or non-payment of wages, the retention of identity documents, and induced indebtedness.

**Exploitative labour contracts:** Migrant workers find themselves “bonded” to a labour contractor, because excessive fees have been charged. All their wages go to paying for transportation, food and shelter, because they’ve been “locked into debt” and they can’t leave or change employers because of force, threats or the remote location of the worksite.

### Risks for Explorers

- Relying on workers supplied by recruiters or government agencies, in locations where forced labour is a high risk.
- Work performed on your behalf by contractors or others who use forced labour

### Key Terms

**Forced or compulsory labour** is all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (ILO Convention No. 29, 1930)

**Slavery** is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised (Slavery Convention, 1926)

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 4

[Covenant on Civil and Political Rights, 1966](#), Article 8

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Article 7

[International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990](#), Article 11 (2)

[ILO Forced Labour Convention, 1930 \(C29\)](#)

[ILO Abolition of Forced Labour Convention, 1957 \(C105\)](#)

<sup>25</sup> *Combating Forced Labour: a handbook for employers and business / International Labour Office - Geneva: ILO, 2008, p.8*

<sup>26</sup> *Belser, P, de Cock, M, and Mehran, F. 2005. ILO Minimum Estimate of Forced Labour in the World. Available online: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081913.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf)*

<sup>27</sup> [http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/Key\\_statistics\\_FL\\_FS.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/Key_statistics_FL_FS.pdf)

<sup>28</sup> [http://www.ilo.org/global/Themes/Forced\\_Labour/lang--en/index.htm](http://www.ilo.org/global/Themes/Forced_Labour/lang--en/index.htm)



### 7.14.1 Recommended Practices

- Develop a policy prohibiting the use of forced labour, in any form, across all of your operations and activities. Make sure the policy applies to suppliers and sub-contractors.
- Commit to zero tolerance of breaches of any of the core labour standards.
- Consider risks related to forced labour when conducting project due diligence. This should include:
  - assessing the likelihood that you or your contractors may be employing forced labour;
  - becoming informed of national laws related to working conditions and terms of employment;
  - understanding the local social and economic conditions and issues related to forced labour.
- Through the due diligence process, where you identify a potential risk of forced labour, take reasonable steps to investigate further. Consider the following additional steps:
  - speak with the employer and recruiter about their employment and recruitment policies and practices;
  - if possible, speak with workers directly and ask them about their work situation to determine whether they have entered into and can leave employment freely; protect the confidentiality of these interviews to safeguard against possible reprisals;
  - review wage records to verify that workers are paid wages comparable to free workers, allowing for legal deductions;
  - assess occupational safety and health standards and working conditions.
- Train staff to identify and prevent forced labour. Training on forced labour and human trafficking can be integrated into other training programs. Staff should be trained to be alert to practices by contractors, recruiters, or organizations supplying workers to your organization, or conducting work on your behalf or for your benefit. Some practices that may be indicative of forced labour include:
  - charging workers recruiting or hiring fees;
  - requiring employees to leave money deposits with the employer or recruiter;
  - coercing or compelling workers to work, or to work extraordinary hours. Some examples of coercion and compulsion include physical force, threats and withholding wages;
  - evidence of the use or threat of harassment, intimidation, or physical violence against workers, their families or close associates;
  - withholding identity documents or means of transportation that would prevent workers from leaving employment;

#### Related e3 Plus Guidance

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

#### Due Diligence Information Sources

[The Country Risk Assessment \(CRA\) reports](#) (Human Rights and Business Project) – provide analysis of sensitive human rights issues in the country of operation, along with practical guidance on how to avoid engaging in human rights violations

[The State of the World's Human Rights](#) (Amnesty International) - human rights issues by country

[US State Department Country](#) reports on human rights – published annually

#### Key Reference Sources

[ILO Website](#) – dedicated to forced labour

[Combating forced labour: A handbook for employers and business](#) – provides guidance material and tools for business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains

[Global Compact Tools and Guidance Materials](#)

- withholding or delaying wages;
- imposing financial penalties on workers;
- working conditions that fall below local standards;
- not allowing workers to leave the worksite at the end of shifts;
- use of prison labour, except in situations where the prisoner has been convicted by a court of law and freely consents to work;
- absence of employment contracts, or situations where employees do not understand the terms of their employment; and
- payment by employees for food and lodging.



### 7.15 Security and Human Rights

Explorers operate in many parts of the world where the safety of their personnel and operations are at risk. Often, these are areas of conflict, where there are oppressive regimes, ethnic conflict and the rule of law is fragile. Explorers are at risk of sabotage, disrupted operations, extortion, kidnapping and reputational damage.

Explorers have a responsibility to protect the security of their personnel and operations. However, this must be done in a way that does not infringe on the human rights of others. In protecting the security of their personnel and operations, explorers may need to engage private security personnel, or rely upon government security forces. While private and government security personnel are expected to act within national laws and international human rights standards and laws, abuses of human rights sometimes occur. A few examples of how security activities can result in abuses of human rights include:

- the use of excessive force – this violates the liberty and security of the victims (Article 3 – UDHR);
- interfering with peaceful protests against the company or project – this violates freedom of expression and freedom of assembly (Articles 19 and 20 – UDHR);
- unlawful arrest by public security forces or detention by private security forces – this violates freedom from arbitrary arrest or detention (Article 9 – UDHR); and
- the use of information gained through security activities to discriminate against members of the workforce or the community – this violates the privacy of the person and freedom from discrimination (Articles 12 and 2 – UDHR);

To minimize the potential of these types of human rights abuses, explorers need to ensure that they understand the security risks in the area in which they propose to operate and be diligent about how they engage and relate with public security forces. Accurately assessing and preparing for risks prior to initiating exploration activities is critical to respecting human rights and protecting the security of workers, local communities and company assets. In some cases, assessing and mitigating risk will be reasonably straightforward and simple. However, in current or historic conflict areas or situations of fragile political, economic, military and social relations, understanding and responding to security risks will require intensive upfront analysis of on ongoing monitoring and adaptation. One of the factors that should be considered is the presence of racial, ethnic, or religious conflict between security forces and local populations. In these situations, explorers are advised to seek the assistance of qualified specialists to help them plan and prepare for security risks.

The Voluntary Principles for Security and Human Rights were released in December 2000 by the U.S. State Department and the Foreign and Commonwealth Office of the United Kingdom. They were developed through a yearlong consultation process involving government officials, oil and mining companies, and NGOs. The Voluntary Principles provide guidance to companies operating in areas of conflict or fragile states, so that they can ensure that security forces – public or private – protecting the companies’ facilities and premises operate in a way that protects the companies’ assets, while respecting human

### Risk for Explorers

- Private security personnel working for explorers who act unlawfully or fail to respect human rights
- Public security that act unlawfully or fail to respect human rights in the conduct of security operations that apply to the explorers’ personnel and operations
- The need to protect and defend facilities and operations in areas of conflict can lead to interactions with security forces and armed groups that are party to the conflict or repression
- Explorers may be required (by law or coercion) to pay public security forces for security provided to their operations

### Key Terms

**rule of law** is a legal system in which rules are clear, well-understood and fairly enforced, and no one, including the government and its officers, are above the law

**private security** involves security guards or security personnel hired by a private organization to protect their property, assets, and/or people

**public security** involves government agencies responsible for ensuring the protection of citizens, organizations and institutions against threats to their well-being and to their prosperity – these include the military and paramilitary forces and law enforcement agencies

### Main International Instruments

[Universal Declaration of Human Rights \(UDHR\), 1948](#), Article 20

[International Covenant on Economic, Social and Cultural Rights, 1966](#), Articles 6 (1) and 9 (1)

[U.N. Code of Conduct for Law Enforcement Officials](#)

rights and fundamental freedoms. They were developed due to mounting international concern over the way that security forces operated in protecting oil and mining installations in many parts of the world. The recommended practices outlined in this section are a summary of the practices in the Voluntary Principles. Explorers operating in areas of potential security risk are advised to consult the full text of the Voluntary Principles.

[Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990](#)

The roles are different for private versus public security personnel. So too is the degree of control and influence that explorers will have over private versus public security forces. The role of public security should be to maintain the rule of law, safeguard human rights and prevent threats to company personnel and facilities. The role of private security personnel is strictly defensive. Private security can act to defend company personnel and property and, within the scope of their authority, to identify and prevent threats to company property. They should not undertake any roles that are properly the responsibility of state law enforcement or military authorities, where these are in place.

The recommended practices apply to both public and private security. However, the control and influence that explorers have with private security personnel will be far greater than with public security.

### 7.15.1 Recommended Practices

- Communicate policies regarding human rights to security providers. Public security providers should be encouraged to provide security in a manner consistent with those policies. Private security providers should be required to comply with these policies as a condition of contract.
- Conduct project due diligence to understand the security risks and how those risks can be mitigated. This should include understanding the country – politically, socially and economically – and considering the:
  - potential for violence in the area of operation;
  - human rights records of public security forces, paramilitaries, local and national law enforcement, and private security forces (when used);
  - nature of local conflicts, as well as the level of adherence to human rights and international humanitarian law standards by key actors;
  - capacity of local authorities (law enforcement, prosecutors, judges) to enforce and hold accountable anyone responsible for human rights abuses;
  - potential for misappropriation or diversion of equipment supplied by the company for security purposes to activities that may lead to human rights abuses and any relevant past incidents involving previous equipment transfers.
- Take reasonable steps to conduct due diligence of private security providers. This should include:
  - discussing rules of engagement, human rights policies and grievance mechanisms up front, when negotiating services with security providers;
  - determining the training and professional proficiency of security personnel, including training in human rights; and
  - looking into the reputation of the provider through inquiry with local communities, government agencies, labour organizations and reputable NGOs.
- Security problems are often manifestations of underlying unresolved grievances with local communities. Therefore, security should be linked to community relations and security programs should emphasize conflict prevention rather than management.
- Consult regularly with host governments and local communities about the impact of security arrangements on those communities.
- Establish a grievance mechanism to receive, investigate and respond to allegations of abusive or unlawful actions by security personnel, including harassment, threats, excessive use of force, misuse of equipment, and breaches of privacy.
- To the extent that it does not jeopardize safety or overriding security concerns, security arrangements should be transparent and accessible to the public.
- Take all reasonable and appropriate measures to prevent misappropriation of

### Related e3 Plus Guidance

Defining the Boundaries of Your Responsibility

How to Develop a Policy

How to Conduct Project Due Diligence

Training Staff and Contractors

Grievance Mechanisms

Community Engagement

### Due Diligence Information Sources

[Country Risk Assessment \(CRA\)](#) – Human Rights and Business Project are designed to provide in-depth analysis of sensitive human rights issues

[U.S. State Department Country](#) reports on human rights – published annually.

[U.S. Law Library of Congress](#) for the Global Legal Information Network (GLIN), this metasite indexes online resources for legal information worldwide: the Nations section offers links to the constitution, executive, legislative, and judicial branches; legal guides; and general resources for over 200 countries

### Key Reference Sources

[Voluntary Principles on Security and Human Rights](#)

[Voluntary Principles and Human Rights: Performance Indicators](#)

equipment for purposes other than legitimate use for company security – this includes designating how and in what circumstances equipment should be used and monitoring the use of equipment.

- Establish controls to maintain the confidentiality of information obtained by private security.
- Take reasonable steps to monitor performance of security activities conducted on your behalf, or in relation to your operations.
- Security forces should not employ individuals to provide security services who credibly implicated in human rights abuses. ;
- Security forces should only use force when strictly necessary and to an extent proportional to the threat. If force is used, it should be reported to the appropriate authorities and to the explorer. Medical assistance should be provided to anyone injured through the use of force.
- Where appropriate and lawful, facilitate the exchange of information about unlawful activity and abuses committed by security providers.
- Establish a grievance process where local communities may report real or perceived abuses.

